

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2275

AN ACT

AMENDING SECTION 32-2065, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 19.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 36-2901.03 AND 36-2912, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2912.04; AMENDING TITLE 36, CHAPTER 29, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2981.01; REPEALING SECTION 41-3008.16, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.28; RELATING TO HEALTH AND WELFARE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2065, Arizona Revised Statutes, is amended to
3 read:

4 32-2065. Board of psychologist examiners fund

5 A. The board of psychologist examiners fund is established.

6 B. Except as provided in ~~section~~ SECTIONS 32-2081 AND 32-2091.09,
7 SUBSECTION I, pursuant to sections 35-146 and 35-147, the board shall deposit
8 ten per cent of all monies collected pursuant to this chapter in the state
9 general fund and deposit the remaining ninety per cent in the board of
10 psychologist examiners fund.

11 C. All monies deposited in the board of psychologist examiners fund
12 are subject to section 35-143.01.

13 Sec. 2. Title 32, chapter 19.1, Arizona Revised Statutes, is amended
14 by adding article 4, to read:

15 ARTICLE 4. BEHAVIOR ANALYSTS

16 32-2091. Definitions

17 A. IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

18 1. "ACTIVE LICENSE" MEANS A CURRENT LICENSE ISSUED BY THE BOARD TO A
19 PERSON LICENSED PURSUANT TO THIS ARTICLE.

20 2. "ADEQUATE RECORDS" MEANS RECORDS THAT CONTAIN, AT A MINIMUM,
21 SUFFICIENT INFORMATION TO IDENTIFY THE CLIENT, THE DATES OF SERVICE, THE FEE
22 FOR SERVICE, THE PAYMENTS FOR SERVICE AND THE TYPE OF SERVICE GIVEN AND
23 COPIES OF ANY REPORTS THAT MAY HAVE BEEN MADE.

24 3. "BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION AND EVALUATION
25 OF SYSTEMATIC ENVIRONMENTAL MODIFICATIONS BY A BEHAVIOR ANALYST TO PRODUCE
26 SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR BASED ON THE PRINCIPLES
27 OF BEHAVIOR IDENTIFIED THROUGH THE EXPERIMENTAL ANALYSIS OF BEHAVIOR.
28 BEHAVIOR ANALYSIS DOES NOT INCLUDE COGNITIVE THERAPIES OR PSYCHOLOGICAL
29 TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, SEX THERAPY, PSYCHOANALYSIS,
30 HYPNOTHERAPY AND LONG-TERM COUNSELING AS TREATMENT MODALITIES.

31 4. "BEHAVIOR ANALYSIS SERVICES" MEANS THE USE OF BEHAVIOR ANALYSIS TO
32 ASSIST A PERSON TO LEARN NEW BEHAVIOR, INCREASE EXISTING BEHAVIOR, REDUCE
33 EXISTING BEHAVIOR AND EMIT BEHAVIOR UNDER PRECISE ENVIRONMENTAL CONDITIONS.
34 BEHAVIOR ANALYSIS INCLUDES BEHAVIORAL PROGRAMMING AND BEHAVIORAL PROGRAMS.

35 5. "BEHAVIOR ANALYST" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS
36 ARTICLE TO PRACTICE BEHAVIOR ANALYSIS.

37 6. "CLIENT" MEANS:

38 (a) A PERSON OR ENTITY THAT RECEIVES BEHAVIOR ANALYSIS SERVICES.

39 (b) A CORPORATE ENTITY, A GOVERNMENTAL ENTITY OR ANY OTHER
40 ORGANIZATION THAT HAS A PROFESSIONAL CONTRACT TO PROVIDE SERVICES OR BENEFITS
41 PRIMARILY TO AN ORGANIZATION RATHER THAN TO AN INDIVIDUAL.

42 (c) AN INDIVIDUAL'S LEGAL GUARDIAN FOR DECISION MAKING PURPOSES,
43 EXCEPT THAT THE INDIVIDUAL IS THE CLIENT FOR ISSUES THAT DIRECTLY AFFECT THE
44 INDIVIDUAL'S PHYSICAL OR EMOTIONAL SAFETY AND ISSUES THAT THE LEGAL GUARDIAN
45 AGREES TO SPECIFICALLY RESERVE TO THE INDIVIDUAL.

1 7. "EXPLOIT" MEANS AN ACTION BY A BEHAVIOR ANALYST WHO TAKES UNDUE
2 ADVANTAGE OF THE PROFESSIONAL ASSOCIATION WITH A CLIENT, STUDENT OR
3 SUPERVISEE FOR THE ADVANTAGE OR PROFIT OF THE BEHAVIOR ANALYST.

4 8. "HEALTH CARE INSTITUTION" MEANS A FACILITY THAT IS LICENSED
5 PURSUANT TO TITLE 36, CHAPTER 4, ARTICLE 1, A PERSON WHO IS AUTHORIZED TO
6 TRANSACT DISABILITY INSURANCE PURSUANT TO TITLE 20, CHAPTER 6, ARTICLE 4 OR 5
7 OR A PERSON WHO IS ISSUED A CERTIFICATE OF AUTHORITY PURSUANT TO TITLE 20,
8 CHAPTER 4, ARTICLE 9.

9 9. "LETTER OF CONCERN" MEANS AN ADVISORY LETTER TO NOTIFY A LICENSEE
10 THAT WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION THE
11 BOARD BELIEVES THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND
12 THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION BEING
13 SUBMITTED TO THE BOARD MAY RESULT IN ACTION AGAINST THE LICENSE.

14 10. "SUPERVISEE" MEANS A PERSON WHO ACTS UNDER THE EXTENDED AUTHORITY
15 OF A BEHAVIOR ANALYST TO PROVIDE BEHAVIORAL SERVICES AND INCLUDES A PERSON
16 WHO IS IN TRAINING TO PROVIDE THESE SERVICES.

17 11. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTIVITIES, WHETHER
18 OCCURRING IN THIS STATE OR ELSEWHERE:

19 (a) OBTAINING A FEE BY FRAUD OR MISREPRESENTATION.

20 (b) BETRAYING PROFESSIONAL CONFIDENCES.

21 (c) MAKING OR USING STATEMENTS OF A CHARACTER TENDING TO DECEIVE OR
22 MISLEAD.

23 (d) AIDING OR ABETTING A PERSON WHO IS NOT LICENSED PURSUANT TO THIS
24 ARTICLE IN REPRESENTING THAT PERSON AS A BEHAVIOR ANALYST.

25 (e) GROSS NEGLIGENCE IN THE PRACTICE OF A BEHAVIOR ANALYST.

26 (f) SEXUAL INTIMACIES OR SEXUAL INTERCOURSE WITH A CURRENT CLIENT OR A
27 SUPERVISEE OR WITH A FORMER CLIENT WITHIN TWO YEARS AFTER THE CESSATION OR
28 TERMINATION OF TREATMENT. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL
29 INTERCOURSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1401.

30 (g) ENGAGING OR OFFERING TO ENGAGE AS A BEHAVIOR ANALYST IN ACTIVITIES
31 THAT ARE NOT CONGRUENT WITH THE BEHAVIOR ANALYST'S PROFESSIONAL EDUCATION,
32 TRAINING AND EXPERIENCE.

33 (h) FAILING OR REFUSING TO MAINTAIN AND RETAIN ADEQUATE BUSINESS,
34 FINANCIAL OR PROFESSIONAL RECORDS PERTAINING TO THE BEHAVIOR ANALYSIS
35 SERVICES PROVIDED TO A CLIENT.

36 (i) COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR
37 A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A
38 COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE
39 EVIDENCE OF THE COMMISSION.

40 (j) MAKING A FRAUDULENT OR UNTRUE STATEMENT TO THE BOARD OR ITS
41 INVESTIGATORS, STAFF OR CONSULTANTS.

42 (k) VIOLATING ANY FEDERAL OR STATE LAW THAT RELATES TO THE PRACTICE OF
43 BEHAVIOR ANALYSIS OR TO OBTAIN A LICENSE TO PRACTICE BEHAVIOR ANALYSIS.

1 (l) PRACTICING BEHAVIOR ANALYSIS WHILE IMPAIRED OR INCAPACITATED TO
2 THE EXTENT AND IN A MANNER THAT JEOPARDIZES THE WELFARE OF A CLIENT OR
3 RENDERS THE SERVICES PROVIDED INEFFECTIVE.

4 (m) USING FRAUD, MISREPRESENTATION OR DECEPTION TO OBTAIN OR ATTEMPT
5 TO OBTAIN A BEHAVIOR ANALYSIS LICENSE OR TO PASS OR ATTEMPT TO PASS A
6 BEHAVIOR ANALYSIS LICENSING EXAMINATION OR IN ASSISTING ANOTHER PERSON TO DO
7 SO.

8 (n) UNPROFESSIONAL CONDUCT IN ANOTHER JURISDICTION THAT RESULTED IN
9 CENSURE, PROBATION OR A CIVIL PENALTY OR IN THE DENIAL, SUSPENSION,
10 RESTRICTION OR REVOCATION OF A CERTIFICATE OR LICENSE TO PRACTICE AS A
11 BEHAVIOR ANALYST.

12 (o) PROVIDING SERVICES THAT ARE UNNECESSARY OR UNSAFE OR OTHERWISE
13 ENGAGING IN ACTIVITIES AS A BEHAVIOR ANALYST THAT ARE UNPROFESSIONAL BY
14 CURRENT STANDARDS OF PRACTICE.

15 (p) FALSELY OR FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PROFESSIONAL
16 SERVICE, CHARGING FOR A SERVICE OR REPRESENTING A SERVICE AS THE LICENSEE'S
17 OWN IF THE LICENSEE HAS NOT RENDERED THE SERVICE OR ASSUMED SUPERVISORY
18 RESPONSIBILITY FOR THE SERVICE.

19 (q) REPRESENTING ACTIVITIES OR SERVICES AS BEING PERFORMED UNDER THE
20 LICENSEE'S SUPERVISION IF THE BEHAVIOR ANALYST HAS NOT ASSUMED RESPONSIBILITY
21 FOR THEM AND HAS NOT EXERCISED CONTROL, OVERSIGHT AND REVIEW.

22 (r) FAILING TO OBTAIN A CLIENT'S INFORMED AND WRITTEN CONSENT TO
23 RELEASE PERSONAL OR OTHERWISE CONFIDENTIAL INFORMATION TO ANOTHER PARTY
24 UNLESS THE RELEASE IS OTHERWISE AUTHORIZED BY LAW.

25 (s) FAILING TO MAKE CLIENT RECORDS IN THE BEHAVIOR ANALYST'S
26 POSSESSION PROMPTLY AVAILABLE TO ANOTHER BEHAVIOR ANALYST ON RECEIPT OF
27 PROPER AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S PARENT, THE
28 CLIENT'S LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE OR FAILING
29 TO COMPLY WITH TITLE 12, CHAPTER 13, ARTICLE 7.1.

30 (t) FAILING TO TAKE REASONABLE STEPS TO INFORM OR PROTECT A CLIENT'S
31 INTENDED VICTIM AND INFORM THE PROPER LAW ENFORCEMENT OFFICIALS IF THE
32 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING
33 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
34 BODILY HARM ON ANOTHER PERSON.

35 (u) FAILING TO TAKE REASONABLE STEPS TO PROTECT A CLIENT IF THE
36 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING
37 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
38 BODILY HARM ON SELF.

39 (v) ABANDONING OR NEGLECTING A CLIENT IN NEED OF IMMEDIATE CARE
40 WITHOUT MAKING SUITABLE ARRANGEMENTS FOR CONTINUATION OF THE CARE.

41 (w) ENGAGING IN DIRECT OR INDIRECT PERSONAL SOLICITATION OF CLIENTS
42 THROUGH THE USE OF COERCION, DURESS, UNDUE INFLUENCE, COMPULSION OR
43 INTIMIDATION PRACTICES.

44 (x) ENGAGING IN FALSE, DECEPTIVE OR MISLEADING ADVERTISING.

45 (y) EXPLOITING A CLIENT, STUDENT OR SUPERVISEE.

1 (z) FAILING TO REPORT INFORMATION TO THE BOARD REGARDING A POSSIBLE
2 ACT OF UNPROFESSIONAL CONDUCT COMMITTED BY ANOTHER BEHAVIOR ANALYST WHO IS
3 LICENSED PURSUANT TO THIS ARTICLE UNLESS THIS REPORTING VIOLATES THE BEHAVIOR
4 ANALYST'S CONFIDENTIAL RELATIONSHIP WITH A CLIENT PURSUANT TO THIS ARTICLE.
5 A BEHAVIOR ANALYST WHO REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD
6 FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES.

7 (aa) VIOLATING A FORMAL BOARD ORDER, CONSENT AGREEMENT, TERM OF
8 PROBATION OR STIPULATED AGREEMENT ISSUED UNDER THIS ARTICLE.

9 (bb) FAILING TO FURNISH INFORMATION IN A TIMELY MANNER TO THE BOARD OR
10 ITS INVESTIGATORS OR REPRESENTATIVES IF REQUESTED OR SUBPOENAED BY THE BOARD
11 AS PRESCRIBED BY THIS ARTICLE.

12 (cc) FAILING TO MAKE AVAILABLE TO A CLIENT OR TO THE CLIENT'S
13 DESIGNATED REPRESENTATIVE, ON WRITTEN REQUEST, A COPY OF THE CLIENT'S RECORD,
14 EXCLUDING RAW TEST DATA, PSYCHOMETRIC TESTING MATERIALS AND OTHER INFORMATION
15 AS PROVIDED BY LAW.

16 (dd) VIOLATING AN ETHICAL STANDARD ADOPTED BY THE BOARD.

17 B. THE BOARD SHALL NOT CONSIDER A COMPLAINT AGAINST A BEHAVIOR ANALYST
18 ARISING OUT OF A JUDICIALLY ORDERED EVALUATION OF A PERSON CHARGED WITH
19 VIOLATING ANY PROVISION OF TITLE 13, CHAPTER 14 TO PRESENT A CHARGE OF
20 UNPROFESSIONAL CONDUCT UNLESS THE COURT ORDERING THE EVALUATION HAS FOUND A
21 SUBSTANTIAL BASIS TO REFER THE COMPLAINT FOR CONSIDERATION BY THE BOARD.

22 32-2091.01. Fees

23 A. THE BOARD, BY A FORMAL VOTE, SHALL ESTABLISH FEES FOR THE FOLLOWING
24 RELATING TO THE LICENSURE OF BEHAVIOR ANALYSTS:

- 25 1. AN APPLICATION FOR AN ACTIVE LICENSE.
- 26 2. AN APPLICATION FOR A TEMPORARY LICENSE.
- 27 3. RENEWAL OF AN ACTIVE LICENSE.
- 28 4. ISSUANCE OF AN INITIAL LICENSE.

29 B. THE BOARD MAY CHARGE ADDITIONAL FEES FOR SERVICES IT DEEMS
30 NECESSARY AND APPROPRIATE TO CARRY OUT THIS ARTICLE. THESE FEES SHALL NOT
31 EXCEED THE ACTUAL COST OF PROVIDING THE SERVICE.

32 C. THE BOARD SHALL NOT REFUND FEES EXCEPT AS OTHERWISE PROVIDED IN
33 THIS ARTICLE. ON SPECIAL REQUEST AND FOR GOOD CAUSE, THE BOARD MAY RETURN
34 THE LICENSE RENEWAL FEE.

35 32-2091.02. Qualifications of applicant

36 BEGINNING JANUARY 1, 2010, A PERSON WHO WISHES TO PRACTICE AS A
37 BEHAVIOR ANALYST MUST BE LICENSED PURSUANT TO THIS ARTICLE. AN APPLICANT FOR
38 LICENSURE MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

- 39 1. SUBMIT AN APPLICATION AS PRESCRIBED BY THE BOARD.
- 40 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.
- 41 3. BE OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
42 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.
- 43 4. PAY ALL APPLICABLE FEES PRESCRIBED BY THE BOARD.
- 44 5. HAVE THE PHYSICAL AND MENTAL CAPABILITY TO SAFELY AND COMPETENTLY
45 ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

1 6. NOT HAVE COMMITTED ANY ACT OR ENGAGED IN ANY CONDUCT THAT WOULD
2 CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSEE PURSUANT TO
3 THIS ARTICLE.

4 7. NOT HAVE HAD A PROFESSIONAL LICENSE OR CERTIFICATE REFUSED,
5 REVOKED, SUSPENDED OR RESTRICTED IN ANY REGULATORY JURISDICTION IN THE UNITED
6 STATES OR IN ANOTHER COUNTRY FOR REASONS THAT RELATE TO UNPROFESSIONAL
7 CONDUCT. IF THE BOARD FINDS THAT THE APPLICANT COMMITTED AN ACT OR ENGAGED
8 IN CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN THIS
9 STATE, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CONDUCT HAS
10 BEEN CORRECTED, MONITORED AND RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED,
11 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT MITIGATING CIRCUMSTANCES
12 EXIST THAT PREVENT ITS RESOLUTION.

13 8. NOT HAVE VOLUNTARILY SURRENDERED A LICENSE OR CERTIFICATE IN
14 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR IN ANOTHER COUNTRY
15 WHILE UNDER INVESTIGATION FOR REASONS THAT RELATE TO UNPROFESSIONAL CONDUCT.
16 IF ANOTHER JURISDICTION HAS TAKEN DISCIPLINARY ACTION AGAINST AN APPLICANT,
17 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CAUSE FOR THE ACTION
18 WAS CORRECTED AND THE MATTER RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED
19 BY THAT JURISDICTION, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT
20 MITIGATING CIRCUMSTANCES EXIST THAT PREVENT ITS RESOLUTION.

21 9. NOT HAVE A COMPLAINT, ALLEGATION OR INVESTIGATION PENDING BEFORE
22 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR ANOTHER COUNTRY THAT
23 RELATES TO UNPROFESSIONAL CONDUCT. IF AN APPLICANT HAS ANY SUCH COMPLAINTS,
24 ALLEGATIONS OR INVESTIGATIONS PENDING, THE BOARD SHALL SUSPEND THE
25 APPLICATION PROCESS AND MAY NOT ISSUE OR DENY A LICENSE TO THE APPLICANT
26 UNTIL THE COMPLAINT, ALLEGATION OR INVESTIGATION IS RESOLVED.

27 32-2091.03. Educational and training qualifications for
28 licensure

29 A. AN APPLICANT FOR LICENSURE AS A BEHAVIOR ANALYST MUST:

30 1. HAVE A GRADUATE DEGREE, MASTER'S DEGREE OR DOCTORAL DEGREE FROM AN
31 ACCREDITED COLLEGE OR UNIVERSITY OR INSTITUTION OF HIGHER LEARNING ACCREDITED
32 BY A RECOGNIZED ACCREDITING AGENCY.

33 2. IF THE APPLICANT COMPLETES A DEGREE, COURSEWORK AND WORK EXPERIENCE
34 REQUIREMENTS AFTER JANUARY 1, 2000, COMPLETE A MINIMUM OF ONE THOUSAND FIVE
35 HUNDRED HOURS OF SUPERVISED WORK EXPERIENCE OR INDEPENDENT FIELDWORK IN THE
36 PRACTICE OF APPLIED BEHAVIOR ANALYSIS IN NOT LESS THAN TWELVE MONTHS.

37 3. HAVE AS PART OF OR IN ADDITION TO THE COURSEWORK REQUIRED FOR THE
38 GRADUATE DEGREE AT LEAST TWO HUNDRED TWENTY-FIVE CLASSROOM HOURS OF SPECIFIC
39 GRADUATE LEVEL INSTRUCTION THAT MEET NATIONALLY RECOGNIZED STANDARDS FOR
40 BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD.

41 4. HAVE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF SUPERVISED
42 WORK EXPERIENCE AS A BEHAVIOR ANALYST ENGAGED IN TASKS THAT MEET NATIONALLY
43 RECOGNIZED STANDARDS FOR BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD. THE
44 SUPERVISED WORK EXPERIENCE HOURS MUST BE COMPLETED AFTER THE APPLICANT

1 COMPLETES THE REQUIRED COURSEWORK PRESCRIBED PURSUANT TO PARAGRAPH 3 OF THIS
2 SUBSECTION.

3 B. THE SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,
4 PARAGRAPH 4 MUST INCLUDE THE FOLLOWING:

5 1. CONDUCTING BEHAVIORAL ASSESSMENTS AND ASSESSMENT ACTIVITIES RELATED
6 TO THE NEED FOR BEHAVIORAL INTERVENTIONS.

7 2. DESIGNING, IMPLEMENTING AND MONITORING BEHAVIOR ANALYSIS PROGRAMS
8 FOR CLIENTS.

9 3. OVERSEEING THE IMPLEMENTATION OF BEHAVIOR ANALYSIS PROGRAMS BY
10 OTHERS.

11 4. OTHER ACTIVITIES NORMALLY PERFORMED BY A BEHAVIOR ANALYST THAT ARE
12 DIRECTLY RELATED TO BEHAVIOR ANALYSIS, SUCH AS ATTENDING PLANNING MEETINGS
13 REGARDING THE BEHAVIOR ANALYSIS PROGRAM, RESEARCHING THE LITERATURE RELATED
14 TO THE PROGRAM, TALKING TO INDIVIDUALS ABOUT THE PROGRAM AND ANY ADDITIONAL
15 ACTIVITIES RELATED TO OVERSIGHT OF BEHAVIORAL PROGRAMMING SUCH AS BEHAVIOR
16 ANALYST SUPERVISION ISSUES OR EVALUATION OF BEHAVIOR ANALYSTS' PERFORMANCE.

17 C. THE FOLLOWING ACTIVITIES ARE NOT CONSIDERED SUPERVISED WORK
18 EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4:

19 1. ATTENDING MEETINGS WITH LITTLE OR NO BEHAVIOR ANALYTIC CONTENT.

20 2. PROVIDING INTERVENTIONS THAT ARE NOT BASED IN BEHAVIOR ANALYSIS.

21 3. DOING NONBEHAVIOR ANALYTIC ADMINISTRATIVE ACTIVITIES.

22 4. ANY OTHER ACTIVITIES THAT ARE NOT DIRECTLY RELATED TO BEHAVIOR
23 ANALYSIS.

24 D. FOR SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,
25 PARAGRAPH 4, THE SUPERVISOR MUST OBSERVE THE APPLICANT ENGAGING IN BEHAVIOR
26 ANALYTIC ACTIVITIES IN THE NATURAL ENVIRONMENT AT LEAST ONCE EVERY TWO WEEKS.
27 THIS OBSERVATION MAY BE CONDUCTED BY WEB CAMERAS, VIDEOTAPE,
28 VIDEOCONFERENCING OR SIMILAR MEANS INSTEAD OF THE SUPERVISOR BEING PHYSICALLY
29 PRESENT. SUPERVISION MAY BE CONDUCTED IN SMALL GROUPS OF TEN OR FEWER
30 PARTICIPANTS FOR NOT MORE THAN HALF OF THE TOTAL SUPERVISED HOURS IN EACH
31 SUPERVISORY PERIOD. THE REMAINDER OF THE TOTAL SUPERVISION HOURS IN EACH
32 SUPERVISORY PERIOD MUST CONSIST OF DIRECT ONE-TO-ONE CONTACT. SUPERVISION
33 HOURS MAY BE COUNTED TOWARD THE TOTAL NUMBER OF EXPERIENCE HOURS REQUIRED.

34 E. A SUPERVISOR CONDUCTING THE SUPERVISED WORK EXPERIENCE PURSUANT TO
35 SUBSECTION D SHALL NOT BE THE APPLICANT'S RELATIVE, SUBORDINATE OR EMPLOYEE
36 DURING THE EXPERIENCE PERIOD. THE SUPERVISOR IS NOT AN EMPLOYEE OF THE
37 APPLICANT IF THE ONLY COMPENSATION RECEIVED BY THE SUPERVISOR FROM THE
38 APPLICANT CONSISTS OF PAYMENT FOR SUPERVISION. A SUPERVISOR MUST BE ONE OF
39 THE FOLLOWING:

40 1. A LICENSED BEHAVIOR ANALYST WHO MEETS REQUIREMENTS FOR LICENSURE
41 PURSUANT TO SUBSECTION A.

42 2. A BEHAVIOR ANALYST WHO IS CERTIFIED BY A NATIONALLY RECOGNIZED
43 BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD AND WHOSE
44 CERTIFICATION IS IN GOOD STANDING.

1 3. AN INDIVIDUAL WHO HAS APPLIED AND BEEN APPROVED TO TAKE A
2 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION EXAMINATION AS
3 DETERMINED BY THE BOARD.

4 4. AN INDIVIDUAL PROVIDING SUPERVISION BEFORE SEPTEMBER 1, 2006.

5 F. AN APPLICANT MAY SUBMIT A WRITTEN REQUEST TO THE BOARD FOR AN
6 EXEMPTION FROM THE REQUIREMENT PRESCRIBED IN SUBSECTION E. THE REQUEST MUST
7 INCLUDE THE NAME OF THE BEHAVIOR ANALYST PROPOSED BY THE APPLICANT TO ACT AS
8 THE CLINICAL SUPERVISOR, A COPY OF THE PROPOSED CLINICAL SUPERVISOR'S
9 TRANSCRIPT AND CURRICULUM VITAE AND ANY ADDITIONAL DOCUMENTATION REQUESTED BY
10 THE BOARD. THE BOARD SHALL REVIEW THE SUPERVISION EXEMPTION REQUEST TO
11 DETERMINE IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
12 AND EXPERIENCE TO PROVIDE SUPERVISION ACCEPTABLE FOR BEHAVIOR ANALYST
13 LICENSURE. IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
14 AND EXPERIENCE, THE BOARD SHALL GRANT THE SUPERVISION EXEMPTION REQUEST. THE
15 BOARD SHALL NOT GRANT AN EXEMPTION REQUEST FOR AN UNLICENSED CLINICAL
16 SUPERVISOR PROVIDING CLINICAL SUPERVISION IN THIS STATE AFTER JULY 1, 2010,
17 EXCEPT THAT AN EXEMPTION MAY BE GRANTED BY THE BOARD IF THE CLINICAL
18 SUPERVISOR HOLDS A CURRENT NATIONAL CERTIFICATION FROM A NATIONALLY
19 RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD.

20 G. AN INDIVIDUAL WHO COMPLETED THE DEGREE, COURSEWORK OR EXPERIENCE
21 BEFORE JANUARY 1, 2000 MAY HAVE SUPERVISED WORK EXPERIENCE OR CORE SPECIFIED
22 COURSEWORK THAT WAS ACCRUED IN A SETTING OUTSIDE OF A COLLEGE OR UNIVERSITY
23 PROGRAM IF THE FOLLOWING CONDITIONS ARE MET:

24 1. THE ACQUIRED COURSEWORK OR SUPERVISED WORK EXPERIENCE WAS ACQUIRED
25 AFTER THE GRADUATE DEGREE AND BEFORE JANUARY 1, 2000.

26 2. THE APPLICANT HAS MET THE REQUIREMENTS FOR AND RECEIVED THE
27 CERTIFICATION CREDENTIAL FROM A NATIONALLY RECOGNIZED BEHAVIOR ANALYST
28 CERTIFICATION BOARD AS DETERMINED BY THE BOARD.

29 H. THE BOARD MAY PRESCRIBE BY RULE ADDITIONAL REQUIREMENTS RELATING TO
30 EDUCATION AND TRAINING.

31 32-2091.04. Reciprocity

32 THE BOARD MAY ISSUE A LICENSE TO A PERSON AS A BEHAVIOR ANALYST IF THE
33 PERSON IS LICENSED OR CERTIFIED BY ANOTHER STATE REGULATORY AGENCY AT AN
34 EQUIVALENT OR HIGHER PRACTICE LEVEL AS DETERMINED BY THE BOARD, PAYS THE FEE
35 PRESCRIBED BY THE BOARD AND MEETS ALL OF THE FOLLOWING REQUIREMENTS:

36 1. SUBMITS A WRITTEN APPLICATION PRESCRIBED BY THE BOARD.

37 2. IS OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
38 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

39 3. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF OF INITIAL LICENSURE OR
40 CERTIFICATION AT AN EQUIVALENT DESIGNATION FOR WHICH THE APPLICANT IS SEEKING
41 LICENSURE IN THIS STATE AND PROOF THAT THE LICENSE OR CERTIFICATE IS CURRENT
42 AND IN GOOD STANDING.

43 4. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF THAT ANY OTHER LICENSE
44 OR CERTIFICATE ISSUED TO THE APPLICANT BY ANOTHER STATE HAS NOT BEEN
45 SUSPENDED OR REVOKED. IF A LICENSEE OR CERTIFICATE HOLDER HAS BEEN SUBJECTED

1 TO ANY OTHER DISCIPLINARY ACTION, THE BOARD MAY ASSESS THE MAGNITUDE OF THAT
2 ACTION AND MAKE A DECISION REGARDING RECIPROCITY BASED ON THIS ASSESSMENT.

3 5. MEETS ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD BY RULE.

4 32-2091.05. Examinations

5 A. AN APPLICANT FOR LICENSURE MUST PASS AN EXAMINATION FROM A
6 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY
7 THE BOARD.

8 B. THE BOARD MAY REQUIRE AN ADDITIONAL EXAMINATION FOR ALL APPLICANTS
9 TO COVER AREAS OF PROFESSIONAL ETHICS AND PRACTICE THAT IS CONSISTENT WITH
10 THE APPLICANT'S EDUCATION AND EXPERIENCE, STATE LAW RELATING TO THE PRACTICE
11 OF BEHAVIOR ANALYSIS OR OTHER AREAS THE BOARD DETERMINES ARE SUITABLE.

12 C. AN APPLICANT MAY NOT TAKE AN EXAMINATION ADMINISTERED FOR OR BY THE
13 BOARD UNTIL THE APPLICANT COMPLETES THE EDUCATION REQUIREMENTS OF THIS
14 ARTICLE.

15 D. AN APPLICANT WHO FAILS THE NATIONAL EXAMINATION ADMINISTERED FOR OR
16 BY ANY JURISDICTION THREE TIMES IS NOT ELIGIBLE TO TAKE THAT EXAMINATION
17 AGAIN UNTIL THE APPLICANT MEETS ADDITIONAL REQUIREMENTS PRESCRIBED BY THE
18 BOARD.

19 32-2091.06. Temporary licenses; inactive status; reinstatement
20 to active status

21 A. IF THE BOARD REQUIRES AN ADDITIONAL EXAMINATION, IT MAY ISSUE A
22 TEMPORARY LICENSE TO A BEHAVIOR ANALYST WHO IS LICENSED OR CERTIFIED UNDER
23 THE LAWS OF ANOTHER JURISDICTION, IF THE BEHAVIOR ANALYST APPLIES TO THE
24 BOARD FOR LICENSURE AND MEETS THE EDUCATIONAL, EXPERIENCE AND FIRST
25 EXAMINATION REQUIREMENTS OF THIS ARTICLE.

26 B. A TEMPORARY LICENSE ISSUED PURSUANT TO THIS SECTION IS EFFECTIVE
27 FROM THE DATE THE APPLICATION IS APPROVED UNTIL THE LAST DAY OF THE MONTH IN
28 WHICH THE APPLICANT RECEIVES THE RESULTS OF THE ADDITIONAL EXAMINATION.

29 C. THE BOARD SHALL NOT EXTEND, RENEW OR REISSUE A TEMPORARY LICENSE OR
30 ALLOW IT TO CONTINUE IN EFFECT BEYOND THE PERIOD AUTHORIZED BY THIS SECTION.

31 D. THE BOARD'S DENIAL OF AN APPLICATION FOR LICENSURE TERMINATES A
32 TEMPORARY LICENSE.

33 E. THE BOARD MAY PLACE ON INACTIVE STATUS AND WAIVE THE LICENSE
34 RENEWAL FEE REQUIREMENTS FOR A PERSON WHO IS TEMPORARILY OR PERMANENTLY
35 UNABLE TO PRACTICE AS A BEHAVIOR ANALYST DUE TO PHYSICAL OR MENTAL INCAPACITY
36 OR DISABILITY. AN INITIAL REQUEST FOR THE WAIVER OF RENEWAL FEES SHALL BE
37 ACCOMPANIED BY THE RENEWAL FEE FOR AN ACTIVE LICENSE, WHICH THE BOARD SHALL
38 RETURN IF THE WAIVER IS GRANTED. THE BOARD SHALL JUDGE EACH REQUEST FOR THE
39 WAIVER OF RENEWAL FEES ON ITS OWN MERITS AND MAY SEEK THE VERIFICATION IT
40 DEEMS NECESSARY TO SUBSTANTIATE THE FACTS OF THE SITUATION. A BEHAVIOR
41 ANALYST WHO IS RETIRED IS EXEMPT FROM PAYING THE RENEWAL FEE. A BEHAVIOR
42 ANALYST MAY REQUEST VOLUNTARY INACTIVE STATUS BY SUBMITTING TO THE BOARD AN
43 APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND AN AFFIRMATION THAT THE
44 BEHAVIOR ANALYST WILL NOT PRACTICE AS A BEHAVIOR ANALYST IN THIS STATE FOR
45 THE DURATION OF THE VOLUNTARY INACTIVE STATUS AND BY PAYING THE REQUIRED FEE.

1 F. A BEHAVIOR ANALYST WHO IS ON ANY FORM OF INACTIVE STATUS SHALL
2 RENEW THE INACTIVE STATUS EVERY TWO YEARS BY SUBMITTING A RENEWAL FORM
3 PROVIDED BY THE BOARD AND PAYING ANY APPLICABLE FEE. A NOTICE TO RENEW IS
4 FULLY EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST
5 KNOWN ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME
6 OF ITS DEPOSIT IN THE MAIL. A BEHAVIOR ANALYST WHO IS ON INACTIVE STATUS DUE
7 TO PHYSICAL OR MENTAL INCAPACITY OR DISABILITY OR RETIREMENT SHALL USE THE
8 TERM "INACTIVE" TO DESCRIBE THE PERSON'S STATUS AND SHALL NOT PRACTICE AS A
9 BEHAVIOR ANALYST.

10 G. A BEHAVIOR ANALYST ON INACTIVE STATUS MAY REQUEST REINSTATEMENT OF
11 THE LICENSE TO ACTIVE STATUS BY APPLYING TO THE BOARD. THE BOARD SHALL
12 DETERMINE WHETHER THE PERSON HAS BEEN OR IS IN VIOLATION OF ANY PROVISIONS OF
13 THIS ARTICLE AND WHETHER THE PERSON HAS MAINTAINED AND UPDATED THE PERSON'S
14 PROFESSIONAL KNOWLEDGE AND CAPABILITY TO PRACTICE AS A BEHAVIOR ANALYST. THE
15 BOARD MAY REQUIRE THE PERSON TO TAKE OR RETAKE THE LICENSURE EXAMINATIONS AND
16 MAY REQUIRE OTHER KNOWLEDGE OR SKILL TRAINING EXPERIENCES. IF APPROVED FOR
17 ACTIVE STATUS, THE PERSON SHALL PAY A RENEWAL FEE THAT EQUALS THE RENEWAL FEE
18 FOR THE LICENSE TO BE REINSTATED.

19 32-2091.07. Active license; issuance; renewal; expiration;
20 continuing education

21 A. IF THE APPLICANT SATISFIES ALL OF THE REQUIREMENTS FOR LICENSURE
22 PURSUANT TO THIS ARTICLE, THE BOARD SHALL ISSUE AN ACTIVE LICENSE AND SHALL
23 PRORATE THE FEE FOR ISSUING THAT LICENSE FOR THE PERIOD REMAINING UNTIL MAY 1
24 OF THE NEXT ODD-NUMBERED YEAR.

25 B. A PERSON HOLDING AN ACTIVE OR INACTIVE LICENSE SHALL APPLY TO RENEW
26 THE LICENSE ON OR BEFORE APRIL 30 OF EACH ODD-NUMBERED YEAR. THE APPLICATION
27 SHALL INCLUDE ANY APPLICABLE RENEWAL FEE. A LICENSE EXPIRES IF THE LICENSEE
28 FAILS TO RENEW THE LICENSE ON OR BEFORE APRIL 30 OF THAT YEAR. A LICENSEE
29 MAY REINSTATE AN EXPIRED LICENSE BY PAYING A REINSTATEMENT FEE ON OR BEFORE
30 JUNE 30 OF THAT YEAR. BEGINNING ON JULY 1 OF THAT YEAR THROUGH APRIL 30 OF
31 THE NEXT YEAR, A LICENSEE MAY REINSTATE THE LICENSE BY PAYING A REINSTATEMENT
32 FEE AND PROVIDING PROOF OF COMPETENCY AND QUALIFICATIONS TO THE BOARD. THIS
33 PROOF MAY INCLUDE CONTINUING EDUCATION, AN ORAL EXAMINATION, A WRITTEN
34 EXAMINATION OR AN INTERVIEW WITH THE BOARD. A LICENSEE WHOSE LICENSE IS NOT
35 REINSTATED ON OR BEFORE APRIL 30 OF THE NEXT EVEN-NUMBERED YEAR MAY REAPPLY
36 FOR LICENSURE AS PRESCRIBED BY THIS ARTICLE. A NOTICE TO RENEW IS FULLY
37 EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST KNOWN
38 ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME OF
39 DEPOSIT IN THE MAIL.

40 C. A PERSON RENEWING A LICENSE SHALL ATTACH TO THE COMPLETED RENEWAL
41 FORM A REPORT OF DISCIPLINARY ACTIONS OR RESTRICTIONS PLACED AGAINST THE
42 LICENSE BY ANOTHER STATE LICENSING OR DISCIPLINARY BOARD OR DISCIPLINARY
43 ACTIONS OR SANCTIONS IMPOSED BY A STATE OR NATIONAL BEHAVIOR ANALYSIS ETHICS
44 COMMITTEE OR HEALTH CARE INSTITUTION. THE REPORT SHALL INCLUDE THE NAME AND
45 ADDRESS OF THE SANCTIONING AGENCY OR HEALTH CARE INSTITUTION, THE NATURE OF

1 THE ACTION TAKEN AND A GENERAL STATEMENT OF THE CHARGES LEADING TO THE
2 ACTION.

3 D. A PERSON WHO RENEWS AN ACTIVE LICENSE TO PRACTICE BEHAVIOR ANALYSIS
4 IN THIS STATE SHALL SATISFY A CONTINUING EDUCATION REQUIREMENT DESIGNED TO
5 PROVIDE THE NECESSARY UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS,
6 PROCEDURES OR TREATMENT RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS IN THE
7 AMOUNT AND DURING THE PERIOD THE BOARD PRESCRIBES. THE BOARD SHALL PRESCRIBE
8 DOCUMENTATION REQUIREMENTS.

9 32-2091.08. Exemptions from licensure

10 A. THIS ARTICLE DOES NOT LIMIT THE ACTIVITIES, SERVICES AND USE OF A
11 TITLE BY THE FOLLOWING:

12 1. A BEHAVIOR ANALYST WHO IS EMPLOYED IN A COMMON SCHOOL, HIGH SCHOOL
13 OR CHARTER SCHOOL SETTING AND WHO IS CERTIFIED TO USE THAT TITLE BY THE
14 DEPARTMENT OF EDUCATION IF THE SERVICES OR ACTIVITIES ARE A PART OF THE
15 DUTIES OF THAT PERSON'S COMMON SCHOOL, HIGH SCHOOL OR CHARTER SCHOOL
16 EMPLOYMENT.

17 2. AN EMPLOYEE OF A GOVERNMENT AGENCY IN A SUBDOCTORATE POSITION WHO
18 USES THE WORD "ASSISTANT" OR "ASSOCIATE" AFTER THE TITLE AND WHO IS
19 SUPERVISED BY A DOCTORATE POSITION EMPLOYEE WHO IS LICENSED AS A BEHAVIOR
20 ANALYST, INCLUDING A TEMPORARY LICENSEE.

21 3. A STUDENT OF BEHAVIOR ANALYSIS PURSUING AN OFFICIAL COURSE OF
22 GRADUATE STUDY AT AN EDUCATIONAL INSTITUTION ACCREDITED AS PRESCRIBED BY THE
23 BOARD, IF AFTER THE TITLE THE WORD "TRAINEE", "INTERN" OR "EXTERN" APPEARS
24 AND THE STUDENT USES THE TITLE ONLY IN CONJUNCTION WITH ACTIVITIES AND
25 SERVICES THAT ARE A PART OF THE SUPERVISED PROGRAM.

26 4. A PERSON WHO RESIDES OUTSIDE OF THIS STATE AND WHO IS CURRENTLY
27 LICENSED OR CERTIFIED AS A BEHAVIOR ANALYST IN THAT STATE IF THE ACTIVITIES
28 AND SERVICES CONDUCTED IN THIS STATE ARE WITHIN THE BEHAVIOR ANALYST'S
29 CUSTOMARY AREA OF PRACTICE, DO NOT EXCEED TWENTY DAYS PER YEAR AND ARE NOT
30 OTHERWISE IN VIOLATION OF THIS ARTICLE AND THE CLIENT, PUBLIC OR CONSUMER IS
31 INFORMED OF THE LIMITED NATURE OF THESE ACTIVITIES AND SERVICES AND THAT THE
32 BEHAVIOR ANALYST IS NOT LICENSED IN THIS STATE.

33 5. A PERSON IN THE EMPLOY OF ARIZONA STATE UNIVERSITY, NORTHERN
34 ARIZONA UNIVERSITY OR THE UNIVERSITY OF ARIZONA IF THE SERVICES ARE A PART OF
35 THE FACULTY DUTIES OF THAT PERSON'S SALARIED POSITION AND THE PERSON IS
36 PARTICIPATING IN A POSTDOCTORAL PROGRAM.

37 6. A SUPERVISEE WHO IS PURSUING A POSTDOCTORAL PROFESSIONAL EXPERIENCE
38 IF THE SERVICES OR ACTIVITIES ARE PROVIDED UNDER THE DIRECT SUPERVISION OF A
39 LICENSED BEHAVIOR ANALYST, CLIENTS ARE INFORMED OF THE TRAINING NATURE OF THE
40 SERVICES PROVIDED AND THE SUPERVISEE HAS A TITLE THAT DESIGNATES THAT
41 PERSON'S TRAINING STATUS.

42 B. THIS ARTICLE DOES NOT LIMIT THE USE OF THE TITLE "BEHAVIOR ANALYST"
43 BY A PERSON WHO POSSESSES A DOCTORAL DEGREE FROM AN EDUCATIONAL INSTITUTION
44 IF THAT PERSON IS NOT ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS.

1 C. THIS ARTICLE DOES NOT PREVENT A MEMBER OF OTHER RECOGNIZED
2 PROFESSIONS WHO IS LICENSED, CERTIFIED OR REGULATED UNDER THE LAWS OF THIS
3 STATE FROM RENDERING SERVICES WITHIN THAT PERSON'S SCOPE OF PRACTICE AND CODE
4 OF ETHICS IF THAT PERSON DOES NOT CLAIM TO BE A BEHAVIOR ANALYST.

5 32-2091.09. Grounds for disciplinary action: duty to report:
6 immunity: proceedings: board action: notice
7 requirements: civil penalty

8 A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE EVIDENCE THAT APPEARS
9 TO SHOW THAT A LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF
10 UNPROFESSIONAL CONDUCT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN
11 THE PRACTICE OF BEHAVIOR ANALYSIS. A HEALTH CARE INSTITUTION SHALL, AND ANY
12 OTHER PERSON MAY, REPORT TO THE BOARD INFORMATION THAT APPEARS TO SHOW THAT A
13 LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
14 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
15 ANALYSIS. THE BOARD SHALL NOTIFY THE LICENSEE ABOUT WHOM INFORMATION HAS
16 BEEN RECEIVED AS TO THE CONTENT OF THE INFORMATION WITHIN ONE HUNDRED TWENTY
17 DAYS AFTER RECEIVING THE INFORMATION. A PERSON WHO REPORTS OR PROVIDES
18 INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL
19 DAMAGES. THE BOARD, IF REQUESTED, SHALL NOT DISCLOSE THE NAME OF THE PERSON
20 PROVIDING INFORMATION UNLESS THIS INFORMATION IS ESSENTIAL TO PROCEEDINGS
21 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD SHALL REPORT A HEALTH CARE
22 INSTITUTION THAT FAILS TO REPORT AS REQUIRED BY THIS SECTION TO THE
23 INSTITUTION'S LICENSING AGENCY.

24 B. A HEALTH CARE INSTITUTION SHALL INFORM THE BOARD IF THE PRIVILEGES
25 OF A LICENSEE TO PRACTICE IN THAT INSTITUTION ARE DENIED, REVOKED, SUSPENDED
26 OR LIMITED BECAUSE OF ACTIONS BY THE LICENSEE THAT APPEAR TO SHOW THAT THE
27 PERSON IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
28 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
29 ANALYSIS, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE HEALTH
30 CARE INSTITUTION TO TAKE THIS ACTION. A HEALTH CARE INSTITUTION SHALL INFORM
31 THE BOARD IF A LICENSEE UNDER INVESTIGATION RESIGNS THE LICENSEE'S PRIVILEGES
32 OR IF A LICENSEE RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE HEALTH CARE
33 INSTITUTION. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS
34 FOR THE RESIGNATION.

35 C. THE BOARD MAY REQUIRE THE LICENSEE TO UNDERGO ANY COMBINATION OF
36 MENTAL, PHYSICAL OR PSYCHOLOGICAL COMPETENCE EXAMINATIONS AT THE LICENSEE'S
37 EXPENSE AND SHALL CONDUCT INVESTIGATIONS NECESSARY TO DETERMINE THE
38 COMPETENCE AND CONDUCT OF THE LICENSEE.

39 D. THE CHAIRPERSON OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING
40 COMMITTEE OF AT LEAST THREE MEMBERS OF THE BOARD, INCLUDING A PUBLIC MEMBER.
41 THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING REQUIREMENTS
42 PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT SCREENING
43 COMMITTEE SHALL REVIEW ALL COMPLAINTS AND, BASED ON THE INFORMATION PROVIDED
44 PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF THE
45 FOLLOWING ACTIONS:

1 1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE
2 COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING
3 COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED
4 ON THE BOARD'S WEBSITE.

5 2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND
6 ACTION.

7 E. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER
8 SUBSECTION A OR B OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
9 REQUIRES EMERGENCY ACTION, THE BOARD MAY ORDER A SUMMARY SUSPENSION OF A
10 LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD
11 ISSUES THIS ORDER, IT SHALL SERVE THE LICENSEE WITH A WRITTEN NOTICE OF
12 COMPLAINT AND FORMAL HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10,
13 SETTING FORTH THE CHARGES MADE AGAINST THE LICENSEE AND THE LICENSEE'S RIGHT
14 TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE WITHIN
15 SIXTY DAYS.

16 F. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
17 SUBSECTION A OR B OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT
18 DIRECT ACTION AGAINST THE LICENSEE, IT MAY TAKE ANY OF THE FOLLOWING ACTIONS:

19 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.

20 2. FILE A LETTER OF CONCERN.

21 3. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
22 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
23 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
24 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

25 G. IF THE BOARD BELIEVES THE INFORMATION PROVIDED PURSUANT TO
26 SUBSECTION A OR B OF THIS SECTION IS OR MAY BE TRUE, IT MAY REQUEST AN
27 INFORMAL INTERVIEW WITH THE LICENSEE. IF THE LICENSEE REFUSES TO BE
28 INTERVIEWED OR IF PURSUANT TO AN INTERVIEW THE BOARD DETERMINES THAT CAUSE
29 MAY EXIST TO REVOKE OR SUSPEND THE LICENSE, IT SHALL ISSUE A FORMAL COMPLAINT
30 AND HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. IF AS A
31 RESULT OF AN INFORMAL INTERVIEW OR A HEARING THE BOARD DETERMINES THAT THE
32 FACTS DO NOT WARRANT REVOCATION OR SUSPENSION OF THE LICENSE, IT MAY TAKE ANY
33 OF THE FOLLOWING ACTIONS:

34 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.

35 2. FILE A LETTER OF CONCERN.

36 3. ISSUE A DECREE OF CENSURE.

37 4. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
38 PUBLIC HEALTH AND SAFETY AND TO REHABILITATE OR EDUCATE THE LICENSEE.
39 PROBATION MAY INCLUDE TEMPORARY SUSPENSION FOR NOT MORE THAN TWELVE MONTHS,
40 RESTRICTION OF THE LICENSE OR RESTITUTION OF FEES TO A CLIENT RESULTING FROM
41 VIOLATIONS OF THIS ARTICLE. IF A LICENSEE FAILS TO COMPLY WITH A TERM OF
42 PROBATION, THE BOARD MAY FILE A COMPLAINT AND NOTICE OF HEARING PURSUANT TO
43 TITLE 41, CHAPTER 6, ARTICLE 10 AND TAKE FURTHER DISCIPLINARY ACTION.

1 5. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO RESTRICT OR LIMIT THE
2 LICENSEE'S PRACTICE OR ACTIVITIES IN ORDER TO REHABILITATE THE LICENSEE,
3 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE
4 PRACTICE OF BEHAVIOR ANALYSIS.

5 6. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
6 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
7 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
8 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

9 H. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
10 SUBSECTION A OR B OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A
11 LICENSE, IT SHALL HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.
12 NOTICE OF A COMPLAINT AND HEARING IS FULLY EFFECTIVE BY MAILING A TRUE COPY
13 TO THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILES. NOTICE
14 IS COMPLETE AT THE TIME OF ITS DEPOSIT IN THE MAIL.

15 I. THE BOARD MAY IMPOSE A CIVIL PENALTY OF AT LEAST THREE HUNDRED
16 DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
17 ARTICLE OR A RULE ADOPTED UNDER THIS ARTICLE. THE BOARD SHALL DEPOSIT,
18 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IT COLLECTS FROM CIVIL
19 PENALTIES PURSUANT TO THIS SUBSECTION IN THE STATE GENERAL FUND.

20 J. IF THE BOARD DETERMINES AFTER A HEARING THAT A LICENSEE HAS
21 COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT, IS MENTALLY OR PHYSICALLY UNABLE
22 TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS OR IS PSYCHOLOGICALLY
23 INCOMPETENT, IT MAY DO ANY OF THE FOLLOWING IN ANY COMBINATION AND FOR ANY
24 PERIOD OF TIME IT DETERMINES NECESSARY:

- 25 1. SUSPEND OR REVOKE THE LICENSE.
- 26 2. CENSURE THE LICENSEE.
- 27 3. PLACE THE LICENSEE ON PROBATION.

28 K. A LICENSEE MAY SUBMIT A WRITTEN RESPONSE TO THE BOARD WITHIN THIRTY
29 DAYS AFTER RECEIVING A LETTER OF CONCERN. THE RESPONSE IS A PUBLIC DOCUMENT
30 AND SHALL BE PLACED IN THE LICENSEE'S FILE.

31 L. A LETTER OF CONCERN IS A PUBLIC DOCUMENT AND MAY BE USED IN FUTURE
32 DISCIPLINARY ACTIONS AGAINST A LICENSEE. A DECREE OF CENSURE IS AN OFFICIAL
33 ACTION AGAINST THE BEHAVIOR ANALYST'S LICENSE AND MAY INCLUDE A REQUIREMENT
34 THAT THE LICENSEE RETURN FEES TO A CLIENT.

35 M. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A PERSON
36 MAY APPEAL A FINAL DECISION MADE PURSUANT TO THIS SECTION TO THE SUPERIOR
37 COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

38 N. IF DURING THE COURSE OF AN INVESTIGATION THE BOARD DETERMINES THAT
39 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE DELIVERY OF BEHAVIOR
40 ANALYSIS SERVICES, IT SHALL INFORM THE APPROPRIATE CRIMINAL JUSTICE AGENCY.

41 32-2091.10. Right to examine and copy evidence; subpoenas;
42 right to counsel; confidentiality

43 A. IN CONNECTION WITH AN INVESTIGATION CONDUCTED PURSUANT TO THIS
44 ARTICLE, AT ALL REASONABLE TIMES THE BOARD AND ITS AUTHORIZED AGENTS MAY
45 EXAMINE AND COPY DOCUMENTS, REPORTS, RECORDS AND OTHER PHYSICAL EVIDENCE

1 WHEREVER LOCATED RELATING TO THE LICENSEE'S PROFESSIONAL COMPETENCE,
2 UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY TO SAFELY PRACTICE
3 BEHAVIOR ANALYSIS.

4 B. THE BOARD AND ITS AUTHORIZED AGENTS MAY ISSUE SUBPOENAS TO COMPEL
5 THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND
6 OTHER PHYSICAL EVIDENCE AS PRESCRIBED IN SUBSECTION A. THE BOARD MAY
7 PETITION THE SUPERIOR COURT TO ENFORCE A SUBPOENA.

8 C. WITHIN FIVE DAYS OF RECEIVING A SUBPOENA, A PERSON MAY PETITION THE
9 BOARD TO REVOKE, LIMIT OR MODIFY THE SUBPOENA. THE BOARD SHALL TAKE THIS
10 ACTION IF IT DETERMINES THAT THE EVIDENCE DEMANDED IS NOT RELEVANT TO THE
11 INVESTIGATION. THE PERSON MAY PETITION THE SUPERIOR COURT FOR THIS RELIEF
12 WITHOUT FIRST PETITIONING THE BOARD.

13 D. A PERSON APPEARING BEFORE THE BOARD OR ITS AUTHORIZED AGENTS MAY BE
14 REPRESENTED BY AN ATTORNEY.

15 E. DOCUMENTS ASSOCIATED WITH AN INVESTIGATION ARE NOT OPEN TO THE
16 PUBLIC AND SHALL REMAIN CONFIDENTIAL. DOCUMENTS MAY NOT BE RELEASED WITHOUT
17 A COURT ORDER COMPELLING THEIR PRODUCTION.

18 F. THIS SECTION OR ANY OTHER PROVISION OF LAW MAKING COMMUNICATIONS
19 BETWEEN A BEHAVIOR ANALYST AND CLIENT PRIVILEGED DOES NOT APPLY TO AN
20 INVESTIGATION CONDUCTED PURSUANT TO THIS ARTICLE. THE BOARD, ITS EMPLOYEES
21 AND ITS AGENTS SHALL KEEP IN CONFIDENCE THE NAMES OF CLIENTS WHOSE RECORDS
22 ARE REVIEWED DURING AN INVESTIGATION.

23 32-2091.11. Injunction

24 A. THE BOARD MAY PETITION THE SUPERIOR COURT FOR AN ORDER TO ENJOIN
25 THE FOLLOWING:

26 1. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS ARTICLE FROM
27 PRACTICING BEHAVIOR ANALYSIS.

28 2. THE ACTIVITIES OF A LICENSEE THAT ARE AN IMMEDIATE THREAT TO THE
29 PUBLIC.

30 3. CRIMINAL ACTIVITIES.

31 B. IF THE BOARD SEEKS AN INJUNCTION TO STOP THE UNLICENSED PRACTICE OF
32 BEHAVIOR ANALYSIS, IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT ON A
33 CERTAIN DAY IN A SPECIFIC COUNTY ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS
34 WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSURE REQUIREMENTS OF
35 THIS ARTICLE. IT IS NOT NECESSARY TO SHOW SPECIFIC DAMAGES OR INJURY.

36 C. THE ISSUANCE OF AN INJUNCTION DOES NOT LIMIT THE BOARD'S AUTHORITY
37 TO TAKE OTHER ACTION AGAINST A LICENSEE PURSUANT TO THIS ARTICLE.

38 32-2091.12. Violations; classification

39 A. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
40 PURSUANT TO THIS ARTICLE TO ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

41 B. IT IS A CLASS 2 MISDEMEANOR FOR ANY PERSON TO:

42 1. SECURE A LICENSE TO PRACTICE PURSUANT TO THIS ARTICLE BY FRAUD OR
43 DECEIT.

44 2. IMPERSONATE A MEMBER OF THE BOARD IN ORDER TO ISSUE A LICENSE TO
45 PRACTICE PURSUANT TO THIS ARTICLE.

1 C. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
2 PURSUANT TO THIS ARTICLE TO USE ANY COMBINATION OF WORDS, INITIALS AND
3 SYMBOLS THAT LEADS THE PUBLIC TO BELIEVE THE PERSON IS LICENSED TO PRACTICE
4 BEHAVIOR ANALYSIS IN THIS STATE.

5 32-2091.13. Confidential communications

6 A. THE CONFIDENTIAL RELATIONS AND COMMUNICATIONS BETWEEN A CLIENT AND
7 A PERSON WHO IS LICENSED PURSUANT TO THIS ARTICLE, INCLUDING TEMPORARY
8 LICENSEES, ARE PLACED ON THE SAME BASIS AS THOSE PROVIDED BY LAW BETWEEN AN
9 ATTORNEY AND CLIENT. UNLESS THE CLIENT WAIVES THE BEHAVIOR ANALYST-CLIENT
10 PRIVILEGE IN WRITING OR IN COURT TESTIMONY, A BEHAVIOR ANALYST SHALL NOT
11 VOLUNTARILY OR INVOLUNTARILY DIVULGE INFORMATION THAT IS RECEIVED BY REASON
12 OF THE CONFIDENTIAL NATURE OF THE BEHAVIOR ANALYST'S PRACTICE. THE BEHAVIOR
13 ANALYST SHALL DIVULGE TO THE BOARD INFORMATION IT REQUIRES IN CONNECTION WITH
14 ANY INVESTIGATION, PUBLIC HEARING OR OTHER PROCEEDING. THE BEHAVIOR
15 ANALYST-CLIENT PRIVILEGE DOES NOT EXTEND TO CASES IN WHICH THE BEHAVIOR
16 ANALYST HAS A DUTY TO REPORT INFORMATION AS REQUIRED BY LAW.

17 B. THE BEHAVIOR ANALYST SHALL ENSURE THAT CLIENT RECORDS AND
18 COMMUNICATIONS ARE TREATED BY CLERICAL AND PARAPROFESSIONAL STAFF AT THE SAME
19 LEVEL OF CONFIDENTIALITY AND PRIVILEGE REQUIRED OF THE BEHAVIOR ANALYST.

20 Sec. 3. Section 36-2901.03, Arizona Revised Statutes, is amended to
21 read:

22 36-2901.03. Federal poverty program; eligibility

23 A. The administration shall adopt rules for a streamlined eligibility
24 determination process for any person who applies to be an eligible person as
25 defined in section 36-2901, paragraph 6, subdivision (a), item (iv). The
26 administration shall adopt these rules in accordance with state and federal
27 requirements and the section 1115 waiver.

28 B. The administration must base eligibility on an adjusted gross
29 income that does not exceed one hundred per cent of the federal poverty
30 guidelines.

31 C. For persons who the administration determines are eligible pursuant
32 to this section, the date of eligibility is the first day of the month of
33 application.

34 D. Except as provided in ~~subsection~~ SUBSECTIONS E AND F of this
35 section, the administration shall determine an eligible person's continued
36 eligibility ~~on an annual basis~~ AT LEAST ANNUALLY.

37 E. Every six months the administration shall determine the continued
38 eligibility of any adult who is at least twenty-one years of age and who is
39 subject to redetermination of eligibility for temporary assistance for needy
40 families cash benefits by the department. Acute care redeterminations
41 pursuant to this subsection shall begin on ~~the effective date of this~~
42 ~~amendment to this section~~ SEPTEMBER 19, 2007 and shall occur simultaneously
43 with redeterminations of eligibility for temporary assistance for needy
44 families cash benefits.

1 F. EVERY SIX MONTHS THE ADMINISTRATION SHALL DETERMINE THE CONTINUED
2 ELIGIBILITY OF ANY ADULT WITHOUT DEPENDENT CHILDREN WHO IS ALL OF THE
3 FOLLOWING:

- 4 1. AT LEAST TWENTY-ONE YEARS OF AGE.
- 5 2. DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.01.
- 6 3. NOT OTHERWISE ELIGIBLE AS A MANDATORY OR OPTIONALLY ELIGIBLE MEMBER
7 PURSUANT TO TITLE XIX OF THE SOCIAL SECURITY ACT AS AUTHORIZED BY THE STATE
8 PLAN.

9 Sec. 4. Section 36-2912, Arizona Revised Statutes, is amended to read:

10 ~~36-2912.~~ Healthcare group coverage; program requirements for
11 small businesses and public employers; related
12 requirements; definitions

13 A. The administration shall administer a healthcare group program to
14 allow willing contractors to deliver health care services to persons defined
15 as eligible pursuant to section 36-2901, paragraph 6, subdivisions (b), (c),
16 (d) and (e). In ~~the absence of a willing contractor~~ **COUNTIES WITH A**
17 **POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS**, the administration may
18 contract directly with any health care provider or entity. The
19 administration may enter into a contract with another entity to provide
20 administrative functions for the healthcare group program.

21 B. Employers with ~~one~~ **TWO** eligible ~~employee~~ **EMPLOYEES** or up to an
22 average of fifty eligible employees under section 36-2901, paragraph 6,
23 subdivision (d):

24 1. May contract with the administration to be the exclusive health
25 benefit plan if the employer has five or fewer eligible employees and enrolls
26 one hundred per cent of these employees into the health benefit plan.

27 2. May contract with the administration for coverage available
28 pursuant to this section if the employer has six or more eligible employees
29 and enrolls eighty per cent of these employees into the healthcare group
30 program.

31 3. Shall have a minimum of ~~one~~ **TWO** and a maximum of fifty eligible
32 employees at the effective date of their first contract with the
33 administration.

34 C. The administration shall not enroll an employer group in healthcare
35 group sooner than ~~one hundred eighty~~ **NINETY** days after the date that the
36 employer's health insurance coverage under an accountable health plan is
37 discontinued. Enrollment in healthcare group is effective on the first day of
38 the month after the ~~one hundred eighty~~ **NINETY** day period. This subsection
39 does not apply to an employer group if the employer's accountable health plan
40 discontinues offering the health plan of which the employer is a member.

41 D. Employees with proof of other existing health care coverage who
42 elect not to participate in the healthcare group program shall not be
43 considered when determining the percentage of enrollment requirements under
44 subsection B of this section if either:

1 1. Group health coverage is provided through a spouse, parent or legal
2 guardian, or insured through individual insurance or another employer.

3 2. Medical assistance is provided by a government subsidized health
4 care program.

5 3. Medical assistance is provided pursuant to section 36-2982,
6 subsection I.

7 E. An employer shall not offer coverage made available pursuant to
8 this section to persons defined as eligible pursuant to section 36-2901,
9 paragraph 6, subdivision (b), (c), (d) or (e) as a substitute for a federally
10 designated plan.

11 F. An employee or dependent defined as eligible pursuant to section
12 36-2901, paragraph 6, subdivision (b), (c), (d) or (e) may participate in
13 healthcare group on a voluntary basis only.

14 G. Notwithstanding subsection B, paragraph 2 of this section, the
15 administration shall adopt rules to allow a business that offers healthcare
16 group coverage pursuant to this section to continue coverage if it expands
17 its employment to include more than fifty employees.

18 H. The administration shall provide eligible employees with disclosure
19 information about the health benefit plan.

20 I. The director shall:

21 1. Require that any contractor that provides covered services to
22 persons defined as eligible pursuant to section 36-2901, paragraph 6,
23 subdivision (a) provide separate audited reports on the assets, liabilities
24 and financial status of any corporate activity involving providing coverage
25 pursuant to this section to persons defined as eligible pursuant to section
26 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

27 2. PROHIBIT THE ADMINISTRATION AND PROGRAM CONTRACTORS FROM
28 REIMBURSING A NONCONTRACTING HOSPITAL FOR SERVICES PROVIDED TO A MEMBER AT A
29 NONCONTRACTING HOSPITAL EXCEPT FOR SERVICES FOR AN EMERGENCY MEDICAL
30 CONDITION.

31 ~~2- 3. Beginning on July 1, 2005, require that a contractor, the~~
32 ~~administration or an accountable health plan negotiate reimbursement rates~~
33 ~~and not use the administration's reimbursement rates established pursuant to~~
34 ~~section 36-2903.01, subsection H, as a default reimbursement rate if a~~
35 ~~contract does not exist between a contractor and a provider. THE~~
36 REIMBURSEMENT RATE FOR AN EMERGENCY MEDICAL CONDITION FOR A NONCONTRACTING
37 HOSPITAL IS:

38 (a) IN COUNTIES WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND
39 PERSONS, ONE HUNDRED FOURTEEN PER CENT OF THE REIMBURSEMENT RATES ESTABLISHED
40 PURSUANT TO SECTION 36-2903.01, SUBSECTION H. THE HOSPITAL SHALL NOTIFY THE
41 CONTRACTOR WHEN A MEMBER IS STABILIZED.

42 (b) IN COUNTIES WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND
43 PERSONS, ONE HUNDRED TWENTY-FIVE PER CENT OF THE REIMBURSEMENT RATES
44 ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H. THE HOSPITAL SHALL
45 NOTIFY THE CONTRACTOR WHEN A MEMBER IS STABILIZED.

1 ~~3-~~ 4. Use monies from the healthcare group fund established by
2 section 36-2912.01 for the administration's costs of operating the healthcare
3 group program.

4 ~~4-~~ 5. Ensure that the contractors are required to meet contract terms
5 as are necessary in the judgment of the director to ensure adequate
6 performance by the contractor. Contract provisions shall include, at a
7 minimum, the maintenance of deposits, performance bonds, financial reserves
8 or other financial security. The director may waive requirements for the
9 posting of bonds or security for contractors that have posted other security,
10 equal to or greater than that required for the healthcare group program, with
11 the administration or the department of insurance for the performance of
12 health service contracts if funds would be available to the administration
13 from the other security on the contractor's default. In waiving, or
14 approving waivers of, any requirements established pursuant to this section,
15 the director shall ensure that the administration has taken into account all
16 the obligations to which a contractor's security is associated. The director
17 may also adopt rules that provide for the withholding or forfeiture of
18 payments to be made to a contractor for the failure of the contractor to
19 comply with provisions of its contract or with provisions of adopted rules.

20 ~~5-~~ 6. Adopt rules.

21 ~~6-~~ 7. Provide reinsurance to the contractors for clean claims based
22 on thresholds established by the administration. For the purposes of this
23 paragraph, "clean claims" has the same meaning prescribed in section 36-2904.

24 J. With respect to services provided by contractors to persons defined
25 as eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c),
26 (d) or (e), a contractor is the payor of last resort and has the same lien or
27 subrogation rights as those held by health care services organizations
28 licensed pursuant to title 20, chapter 4, article 9.

29 K. The administration shall offer a health benefit plan on a
30 guaranteed issuance basis to small employers as required by this section.
31 All small employers qualify for this guaranteed offer of coverage. ~~The~~
32 ~~administration shall provide a health benefit plan to each small employer~~
33 ~~without regard to health status related factors if the small employer agrees~~
34 ~~to make the premium payments and to satisfy any other reasonable provisions~~
35 ~~of the plan and contract.~~ The administration shall offer to all small
36 employers the available health benefit plan and shall accept any small
37 employer that applies and meets the eligibility requirements. In addition to
38 the requirements prescribed in this section, for any offering of any health
39 benefit plan to a small employer, as part of the administration's
40 solicitation and sales materials, the administration shall make a reasonable
41 disclosure to the employer of the availability of the information described
42 in this subsection and, on request of the employer, shall provide that
43 information to the employer. The administration shall provide information
44 concerning the following:

1 1. Provisions of coverage relating to the following, if applicable:
2 (a) The administration's right to establish premiums and to change
3 premium rates and the factors that may affect changes in premium rates.

4 (b) Renewability of coverage.

5 (c) Any preexisting condition exclusion.

6 (d) The geographic areas served by the contractor.

7 2. The benefits and premiums available under all health benefit plans
8 for which the employer is qualified.

9 L. The administration shall describe the information required by
10 subsection K of this section in language that is understandable by the
11 average small employer and with a level of detail that is sufficient to
12 reasonably inform a small employer of the employer's rights and obligations
13 under the health benefit plan. This requirement is satisfied if the
14 administration provides the following information:

15 1. An outline of coverage that describes the benefits in summary form.

16 2. The rate or rating schedule that applies to the product,
17 preexisting condition exclusion or affiliation period.

18 3. The minimum employer contribution and group participation rules
19 that apply to any particular type of coverage.

20 4. In the case of a network plan, a map or listing of the areas
21 served.

22 M. A contractor is not required to disclose any information that is
23 proprietary and protected trade secret information under applicable law.

24 N. At least sixty days before the date of expiration of a health
25 benefit plan, the administration shall provide a written notice to the
26 employer of the terms for renewal of the plan.

27 O. The administration ~~may~~ **SHALL** increase or decrease premiums based on
28 actuarial reviews **BY AN INDEPENDENT ACTUARY** of the projected and actual costs
29 of providing health care benefits to eligible members. Before changing
30 premiums, the administration must give sixty days' written notice to the
31 employer. ~~The administration may cap the amount of the change.~~ **FOR EACH**
32 **CONTRACT PERIOD THE ADMINISTRATION SHALL SET PREMIUMS THAT IN THE AGGREGATE**
33 **COVER PROJECTED MEDICAL AND ADMINISTRATIVE COSTS FOR THAT CONTRACT PERIOD AND**
34 **THAT ARE DETERMINED PURSUANT TO GENERALLY ACCEPTED ACTUARIAL PRINCIPLES AND**
35 **PRACTICES BY AN INDEPENDENT ACTUARY.**

36 P. The administration ~~may~~ **SHALL** consider age, sex, ~~income~~ **HEALTH**
37 **STATUS-RELATED FACTORS, GROUP SIZE, GEOGRAPHIC AREA** and community rating when
38 it establishes premiums for the healthcare group program.

39 Q. Except as provided in subsection R of this section, a health
40 benefit plan may not deny, limit or condition the coverage or benefits based
41 on a person's health status-related factors or a lack of evidence of
42 insurability. **A HEALTH BENEFIT PLAN SHALL NOT PROVIDE OR OFFER ANY SERVICE,**
43 **BENEFIT OR COVERAGE THAT IS NOT PART OF THE HEALTH BENEFIT PLAN CONTRACT.**

44 R. A health benefit plan shall not exclude coverage for preexisting
45 conditions, except that:

1 1. A health benefit plan may exclude coverage for preexisting
2 conditions for a period of not more than twelve months or, in the case of a
3 late enrollee, eighteen months. The exclusion of coverage does not apply to
4 services that are furnished to newborns who were otherwise covered from the
5 time of their birth or to persons who satisfy the portability requirements
6 under this section.

7 2. The contractor shall reduce the period of any applicable
8 preexisting condition exclusion by the aggregate of the periods of creditable
9 coverage that apply to the individual.

10 S. The contractor shall calculate creditable coverage according to the
11 following:

12 1. The contractor shall give an individual credit for each portion of
13 each month the individual was covered by creditable coverage.

14 2. The contractor shall not count a period of creditable coverage for
15 an individual enrolled in a health benefit plan if after the period of
16 coverage and before the enrollment date there were sixty-three consecutive
17 days during which the individual was not covered under any creditable
18 coverage.

19 3. The contractor shall give credit in the calculation of creditable
20 coverage for any period that an individual is in a waiting period for any
21 health coverage.

22 T. The contractor shall not count a period of creditable coverage with
23 respect to enrollment of an individual if, after the most recent period of
24 creditable coverage and before the enrollment date, sixty-three consecutive
25 days lapse during all of which the individual was not covered under any
26 creditable coverage. The contractor shall not include in the determination
27 of the period of continuous coverage described in this section any period
28 that an individual is in a waiting period for health insurance coverage
29 offered by a health care insurer or is in a waiting period for benefits under
30 a health benefit plan offered by a contractor. In determining the extent to
31 which an individual has satisfied any portion of any applicable preexisting
32 condition period the contractor shall count a period of creditable coverage
33 without regard to the specific benefits covered during that period. A
34 contractor shall not impose any preexisting condition exclusion in the case
35 of an individual who is covered under creditable coverage thirty-one days
36 after the individual's date of birth. A contractor shall not impose any
37 preexisting condition exclusion in the case of a child who is adopted or
38 placed for adoption before age eighteen and who is covered under creditable
39 coverage thirty-one days after the adoption or placement for adoption.

40 U. The written certification provided by the administration must
41 include:

42 1. The period of creditable coverage of the individual under the
43 contractor and any applicable coverage under a COBRA continuation provision.

44 2. Any applicable waiting period or affiliation period imposed on an
45 individual for any coverage under the health plan.

1 V. The administration shall issue and accept a written certification
2 of the period of creditable coverage of the individual that contains at least
3 the following information:

4 1. The date that the certificate is issued.

5 2. The name of the individual or dependent for whom the certificate
6 applies and any other information that is necessary to allow the issuer
7 providing the coverage specified in the certificate to identify the
8 individual, including the individual's identification number under the policy
9 and the name of the policyholder if the certificate is for or includes a
10 dependent.

11 3. The name, address and telephone number of the issuer providing the
12 certificate.

13 4. The telephone number to call for further information regarding the
14 certificate.

15 5. One of the following:

16 (a) A statement that the individual has at least eighteen months of
17 creditable coverage. For purposes of this subdivision, eighteen months means
18 five hundred forty-six days.

19 (b) Both the date that the individual first sought coverage, as
20 evidenced by a substantially complete application, and the date that
21 creditable coverage began.

22 6. The date creditable coverage ended, unless the certificate
23 indicates that creditable coverage is continuing from the date of the
24 certificate.

25 W. The administration shall provide any certification pursuant to this
26 section within thirty days after the event that triggered the issuance of the
27 certification. Periods of creditable coverage for an individual are
28 established by presentation of the certifications in this section.

29 X. The healthcare group program shall comply with all applicable
30 federal requirements.

31 Y. Healthcare group may pay a commission to an insurance producer. To
32 receive a commission, the producer must certify that to the best of the
33 producer's knowledge the employer group has not had insurance in the ~~one~~
34 ~~hundred-eighty~~ NINETY days before applying to healthcare group. For the
35 purposes of this subsection, "commission" means a one time payment on the
36 initial enrollment of an employer.

37 Z. On or before June 15 and November 15 of each year, the director
38 shall submit a report to the joint legislative budget committee regarding the
39 number and type of businesses participating in healthcare group and that
40 includes updated information on healthcare group marketing activities. The
41 director, within thirty days of implementation, shall notify the joint
42 legislative budget committee of any changes in healthcare group benefits or
43 cost sharing arrangements.

44 AA. THE ADMINISTRATION SHALL SUBMIT THE FOLLOWING TO THE JOINT
45 LEGISLATIVE BUDGET COMMITTEE:

1 1. QUARTERLY REPORTS REGARDING THE FINANCIAL CONDITION OF THE
2 HEALTHCARE GROUP PROGRAM. THE REPORTS SHALL INCLUDE THE NUMBER OF PERSONS
3 AND EMPLOYER GROUPS ENROLLED IN THE PROGRAM AND MEDICAL LOSS INFORMATION AND
4 PROJECTIONS.

5 2. AN ANNUAL FINANCIAL AUDIT.

6 3. THE ANALYSIS THAT IS USED TO DETERMINE PREMIUMS PURSUANT TO
7 SUBSECTION 0 OF THIS SECTION.

8 BB. BEGINNING JULY 1, 2009, AND EACH FISCAL YEAR THEREAFTER,
9 HEALTHCARE GROUP SHALL LIMIT EMPLOYER GROUP ENROLLMENT TO NOT MORE THAN FIVE
10 PER CENT MORE THAN THE NUMBER OF EMPLOYER GROUPS ENROLLED IN THE PROGRAM AT
11 THE END OF THE PRECEDING FISCAL YEAR. HEALTHCARE GROUP SHALL GIVE ENROLLMENT
12 PRIORITY TO UNINSURED GROUPS.

13 ~~AA.~~ CC. For the purposes of this section:

14 1. "Accountable health plan" has the same meaning prescribed in
15 section 20-2301.

16 2. "COBRA continuation provision" means:

17 (a) Section 4980B, except subsection (f)(1) as it relates to pediatric
18 vaccines, of the internal revenue code of 1986.

19 (b) Title I, subtitle B, part 6, except section 609, of the employee
20 retirement income security act of 1974.

21 (c) Title XXII of the public health service act.

22 (d) Any similar provision of the law of this state or any other state.

23 3. "Creditable coverage" means coverage solely for an individual,
24 other than limited benefits coverage, under any of the following:

25 (a) An employee welfare benefit plan that provides medical care to
26 employees or the employees' dependents directly or through insurance,
27 reimbursement or otherwise pursuant to the employee retirement income
28 security act of 1974.

29 (b) A church plan as defined in the employee retirement income
30 security act of 1974.

31 (c) A health benefits plan, as defined in section 20-2301, issued by a
32 health plan.

33 (d) Part A or part B of title XVIII of the social security act.

34 (e) Title XIX of the social security act, other than coverage
35 consisting solely of benefits under section 1928.

36 (f) Title 10, chapter 55 of the United States Code.

37 (g) A medical care program of the Indian health service or of a tribal
38 organization.

39 (h) A health benefits risk pool operated by any state of the United
40 States.

41 (i) A health plan offered pursuant to title 5, chapter 89 of the
42 United States Code.

43 (j) A public health plan as defined by federal law.

44 (k) A health benefit plan pursuant to section 5(e) of the peace corps
45 act (22 United States Code section 2504(e)).

1 (l) A policy or contract, including short-term limited duration
2 insurance, issued on an individual basis by an insurer, a health care
3 services organization, a hospital service corporation, a medical service
4 corporation or a hospital, medical, dental and optometric service corporation
5 or made available to persons defined as eligible under section 36-2901,
6 paragraph 6, subdivisions (b), (c), (d) and (e).

7 (m) A policy or contract issued by a health care insurer or the
8 administration to a member of a bona fide association.

9 4. "Eligible employee" means a person who is one of the following:

10 (a) Eligible pursuant to section 36-2901, paragraph 6, subdivisions
11 (b), (c), (d) and (e).

12 (b) A person who works for an employer for a minimum of twenty hours
13 per week or who is self-employed for at least twenty hours per week.

14 (c) An employee who elects coverage pursuant to section 36-2982,
15 subsection I. The restriction prohibiting employees employed by public
16 agencies prescribed in section 36-2982, subsection I does not apply to this
17 subdivision.

18 (d) A person who meets all of the eligibility requirements, who is
19 eligible for a federal health coverage tax credit pursuant to section 35 of
20 the internal revenue code of 1986 and who applies for health care coverage
21 through the healthcare group program. The requirement that a person be
22 employed with a small business that elects healthcare group coverage does not
23 apply to this eligibility group.

24 5. "EMERGENCY MEDICAL CONDITION" HAS THE SAME MEANING PRESCRIBED IN
25 THE EMERGENCY MEDICAL TREATMENT AND LABOR ACT (P.L. 99-272; 100 STAT. 164; 42
26 UNITED STATES CODE SECTION 1395dd(e)).

27 ~~5-~~ 6. "Genetic information" means information about genes, gene
28 products and inherited characteristics that may derive from the individual or
29 a family member, including information regarding carrier status and
30 information derived from laboratory tests that identify mutations in specific
31 genes or chromosomes, physical medical examinations, family histories and
32 direct ~~analysis~~ ANALYSES of genes or chromosomes.

33 ~~6-~~ 7. "Health benefit plan" means coverage offered by the
34 administration for the healthcare group program pursuant to this section.

35 ~~7-~~ 8. "Health status-related factor" means any factor in relation to
36 the health of the individual or a dependent of the individual enrolled or to
37 be enrolled in a health plan including:

- 38 (a) Health status.
39 (b) Medical condition, including physical and mental illness.
40 (c) Claims experience.
41 (d) Receipt of health care.
42 (e) Medical history.
43 (f) Genetic information.
44 (g) Evidence of insurability, including conditions arising out of acts
45 of domestic violence as defined in section 20-448.

1 (h) The existence of a physical or mental disability.

2 ~~8-~~ 9. "Hospital" means a health care institution licensed as a
3 hospital pursuant to chapter 4, article 2 of this title.

4 ~~9-~~ 10. "Late enrollee" means an employee or dependent who requests
5 enrollment in a health benefit plan after the initial enrollment period that
6 is provided under the terms of the health benefit plan if the initial
7 enrollment period is at least thirty-one days. Coverage for a late enrollee
8 begins on the date the person becomes a dependent if a request for enrollment
9 is received within thirty-one days after the person becomes a dependent. An
10 employee or dependent shall not be considered a late enrollee if:

11 (a) The person:

12 (i) At the time of the initial enrollment period was covered under a
13 public or private health insurance policy or any other health benefit plan.

14 (ii) Lost coverage under a public or private health insurance policy
15 or any other health benefit plan due to the employee's termination of
16 employment or eligibility, the reduction in the number of hours of
17 employment, the termination of the other plan's coverage, the death of the
18 spouse, legal separation or divorce or the termination of employer
19 contributions toward the coverage.

20 (iii) Requests enrollment within thirty-one days after the termination
21 of creditable coverage that is provided under a COBRA continuation provision.

22 (iv) Requests enrollment within thirty-one days after the date of
23 marriage.

24 (b) The person is employed by an employer that offers multiple health
25 benefit plans and the person elects a different plan during an open
26 enrollment period.

27 (c) The person becomes a dependent of an eligible person through
28 marriage, birth, adoption or placement for adoption and requests enrollment
29 no later than thirty-one days after becoming a dependent.

30 ~~10-~~ 11. "Preexisting condition" means a condition, regardless of the
31 cause of the condition, for which medical advice, diagnosis, care or
32 treatment was recommended or received within not more than six months before
33 the date of the enrollment of the individual under a health benefit plan
34 issued by a contractor. Preexisting condition does not include a genetic
35 condition in the absence of a diagnosis of the condition related to the
36 genetic information.

37 ~~11-~~ 12. "Preexisting condition limitation" or "preexisting condition
38 exclusion" means a limitation or exclusion of benefits for a preexisting
39 condition under a health benefit plan offered by a contractor.

40 ~~12-~~ 13. "Small employer" means an employer who employs at least one
41 but not more than fifty eligible employees on a typical business day during
42 any one calendar year.

1 ~~13-~~ 14. "Waiting period" means the period that must pass before a
2 potential participant or eligible employee in a health benefit plan offered
3 by a health plan is eligible to be covered for benefits as determined by the
4 individual's employer.

5 Sec. 5. Title 36, chapter 29, article 1, Arizona Revised Statutes, is
6 amended by adding section 36-2912.04, to read:

7 36-2912.04. Medical loss subsidies; required information

8 THE ADMINISTRATION SHALL ESTABLISH UTILIZATION MANAGEMENT CONTROL
9 STANDARDS FOR PARTICIPATING CONTRACTORS THAT MEET NATIONALLY RECOGNIZED
10 STANDARDS FOR MANAGED CARE UTILIZATION. CONTRACTORS THAT DO NOT MEET THESE
11 STANDARDS ARE NOT ELIGIBLE FOR STOP-LOSS COVERAGE FOR MEDICAL COSTS IN EXCESS
12 OF THESE STANDARDS.

13 Sec. 6. Title 36, chapter 29, article 4, Arizona Revised Statutes, is
14 amended by adding section 36-2981.01, to read:

15 36-2981.01. Children's health insurance program; parent
16 eligibility

17 A. A PARENT OF A CHILD WHO IS ELIGIBLE FOR OR ENROLLED IN THE
18 CHILDREN'S HEALTH INSURANCE PROGRAM OR A PARENT WHO HAS A CHILD ENROLLED
19 UNDER ARTICLE 1 OF THIS CHAPTER, BUT WHO WOULD BE ELIGIBLE FOR THE CHILDREN'S
20 HEALTH INSURANCE PROGRAM, IS ELIGIBLE FOR THE CHILDREN'S HEALTH INSURANCE
21 PROGRAM AND MAY APPLY FOR ELIGIBILITY BASED ON AN INCOME THAT DOES NOT EXCEED
22 TWO HUNDRED PER CENT OF THE FEDERAL POVERTY LEVEL.

23 B. ELIGIBILITY AND PROGRAM CONTINUATION ARE DEPENDENT ON THE
24 CONTINUATION OF AN ENHANCED FEDERAL MATCHING RATE FOR STATE MONIES. THE
25 PROGRAM ENDS ON EXPIRATION OF THE ENHANCED FEDERAL MATCHING RATE.

26 C. IN DETERMINING ELIGIBILITY PURSUANT TO SUBSECTION A OF THIS
27 SECTION, THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL
28 APPLY OTHER ELIGIBILITY REQUIREMENTS PURSUANT TO SECTIONS 36-2981 AND 36-2983
29 AND RULES ADOPTED BY THE ADMINISTRATION. IF THE PARENT IS DETERMINED
30 ELIGIBLE PURSUANT TO THIS SECTION, EXCEPT AS PROVIDED IN SUBSECTION D OF THIS
31 SECTION, ALL OTHER REQUIREMENTS ESTABLISHED BY THE ADMINISTRATION BY RULE,
32 INCLUDING AVAILABLE SERVICES, PURSUANT TO THIS ARTICLE APPLY.

33 D. PERSONS RECEIVING SERVICES UNDER THIS SECTION SHALL MAKE PREMIUM
34 PAYMENTS ON A MONTHLY BASIS. THE DIRECTOR SHALL ADOPT RULES TO PRESCRIBE
35 TIERED PREMIUMS BASED ON THE FOLLOWING:

36 1. FOR HOUSEHOLDS WITH INCOMES OF MORE THAN ONE HUNDRED PER CENT BUT
37 LESS THAN ONE HUNDRED FIFTY PER CENT OF THE FEDERAL POVERTY GUIDELINES, THE
38 PREMIUM IS EQUAL TO THREE PER CENT OF THE HOUSEHOLD'S NET INCOME.

39 2. FOR HOUSEHOLDS WITH INCOMES OF AT LEAST ONE HUNDRED FIFTY PER CENT
40 BUT LESS THAN ONE HUNDRED SEVENTY-FIVE PER CENT OF THE FEDERAL POVERTY
41 GUIDELINES, THE PREMIUM IS EQUAL TO FOUR PER CENT OF THE HOUSEHOLD'S NET
42 INCOME.

43 3. FOR HOUSEHOLDS WITH INCOMES OF AT LEAST ONE HUNDRED SEVENTY-FIVE
44 PER CENT BUT NOT MORE THAN TWO HUNDRED PER CENT OF THE FEDERAL POVERTY

1 GUIDELINES, THE PREMIUM IS EQUAL TO FIVE PER CENT OF THE HOUSEHOLD'S NET
2 INCOME.

3 E. PREMIUMS PAID PURSUANT TO SUBSECTION D OF THIS SECTION APPLY TO THE
4 ENTIRE HOUSEHOLD UNIT, REGARDLESS OF THE NUMBER OF PARENTS OR CHILDREN
5 PARTICIPATING.

6 Sec. 7. Repeal

7 Section 41-3008.16, Arizona Revised Statutes, is repealed.

8 Sec. 8. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
9 amended by adding section 41-3016.28, to read:

10 41-3016.28. Arizona pioneers' home; disabled miners hospital;
11 termination July 1, 2016

12 A. THE ARIZONA PIONEERS' HOME AND THE DISABLED MINERS HOSPITAL
13 TERMINATE ON JULY 1, 2016.

14 B. TITLE 41, CHAPTER 5, ARTICLES 2 AND 3 ARE REPEALED ON JANUARY 1,
15 2017.

16 Sec. 9. Exemption from rule making

17 For the purposes of this act, the state board of psychologist examiners
18 is exempt from the rule making requirements of title 41, chapter 6, Arizona
19 Revised Statutes, for two years after the effective date of this act.

20 Sec. 10. County transfers; fiscal year 2008-2009; county
21 expenditure limitations

22 A. Notwithstanding any other law, in fiscal year 2008-2009, counties
23 with a population of two million or more persons shall transfer \$24,168,400
24 and counties with a population of more than eight hundred thousand persons
25 but less than two million persons shall transfer \$3,794,400 to the Arizona
26 health care cost containment system administration for deposit in the budget
27 neutrality compliance fund established by section 36-2928, Arizona Revised
28 Statutes.

29 B. Notwithstanding any other law, a county may meet any statutory
30 funding requirements of this section from any source of county revenue
31 designated by the county, including funds of any county wide special taxing
32 district in which the board of supervisors serves as the board of directors.

33 C. Contributions made pursuant to this section are excluded from the
34 county expenditure limitations.

35 Sec. 11. AHCCCS; transfers; budget neutrality compliance fund

36 Notwithstanding any other law, in fiscal year 2008-2009, the Arizona
37 health care cost containment system administration shall not transfer
38 \$17,830,500 to counties for refunds of county Arizona long-term care system
39 costs for fiscal year 2006-2007 and fiscal year 2007-2008 and shall instead
40 deposit the \$17,830,500 in the budget neutrality compliance fund established
41 by section 36-2928, Arizona Revised Statutes.

42 Sec. 12. Temporary medical coverage program; suspension

43 Notwithstanding any other law, the temporary medical coverage program
44 established by section 36-2930, Arizona Revised Statutes, is suspended during
45 fiscal year 2008-2009.

1 Sec. 13. AHCCCS: disproportionate share payments

2 Disproportionate share payments for fiscal year 2008-2009 made pursuant
3 to section 36-2903.01, subsection P, Arizona Revised Statutes, include:

4 1. \$89,877,700 for a qualifying nonstate operated public hospital.
5 The Maricopa county special health care district shall provide a certified
6 public expense form for the amount of qualifying disproportionate share
7 hospital expenditures made on behalf of this state to the administration on
8 or before May 1, 2009 for all state plan years as required by the Arizona
9 health care cost containment system 1115 waiver standard terms and
10 conditions. The administration shall assist the district in determining the
11 amount of qualifying disproportionate share hospital expenditures. Once the
12 administration files a claim with the federal government and receives federal
13 funds participation based on the amount certified by the Maricopa county
14 special health care district, if the certification is equal to or greater
15 than \$89,877,700, the administration shall distribute \$4,202,300 to the
16 Maricopa county special health care district and deposit the balance of the
17 federal funds participation in the state general fund. If the certification
18 provided is for an amount less than \$89,877,700, and the administration
19 determines that the revised amount is correct pursuant to the methodology
20 used by the administration pursuant to section 36-2903.01, Arizona Revised
21 Statutes, the administration shall notify the governor, the president of the
22 senate and the speaker of the house of representatives, shall distribute
23 \$4,202,300 to the Maricopa county special health care district and shall
24 deposit the balance of the federal funds participation in the state general
25 fund. If the certification provided is for an amount less than \$89,877,700
26 and the administration determines that the revised amount is not correct
27 pursuant to the methodology used by the administration pursuant to section
28 36-2903.01, Arizona Revised Statutes, the administration shall notify the
29 governor, the president of the senate and the speaker of the house of
30 representatives and shall deposit the total amount of the federal funds
31 participation in the state general fund.

32 2. \$28,614,300 for the Arizona state hospital. The Arizona state
33 hospital shall provide a certified public expense form for the amount of
34 qualifying disproportionate share hospital expenditures made on behalf of the
35 state to the administration on or before March 31, 2009. The administration
36 shall assist the Arizona state hospital in determining the amount of
37 qualifying disproportionate share hospital expenditures. Once the
38 administration files a claim with the federal government and receives federal
39 funds participation based on the amount certified by the Arizona state
40 hospital, the administration shall distribute the entire amount of federal
41 financial participation to the state general fund. If the certification
42 provided is for an amount less than \$28,614,300, the administration shall
43 notify the governor, the president of the senate and the speaker of the house
44 of representatives and shall distribute the entire amount of federal
45 financial participation to the state general fund. The certified public

1 expense form provided by the Arizona state hospital shall contain both the
2 total amount of qualifying disproportionate share hospital expenditures and
3 the amount limited by section 1923(g) of the social security act.

4 3. \$26,147,700 for private qualifying disproportionate share
5 hospitals.

6 Sec. 14. County acute care contribution: fiscal year 2008-2009

7 A. Notwithstanding section 11-292, Arizona Revised Statutes, for
8 fiscal year 2008-2009 for the provision of hospitalization and medical care,
9 the counties shall contribute the following amounts:

10	1. Apache	\$ 268,800
11	2. Cochise	\$ 2,214,800
12	3. Coconino	\$ 742,900
13	4. Gila	\$ 1,413,200
14	5. Graham	\$ 536,200
15	6. Greenlee	\$ 190,700
16	7. La Paz	\$ 212,100
17	8. Maricopa	\$21,552,700
18	9. Mohave	\$ 1,237,700
19	10. Navajo	\$ 310,800
20	11. Pima	\$14,951,800
21	12. Pinal	\$ 2,715,600
22	13. Santa Cruz	\$ 482,800
23	14. Yavapai	\$ 1,427,800
24	15. Yuma	\$ 1,325,100

25 B. If a county does not provide funding as specified in subsection A
26 of this section, the state treasurer shall subtract the amount owed by the
27 county to the Arizona health care cost containment system fund and the
28 long-term care system fund established by section 36-2913, Arizona Revised
29 Statutes, from any payments required to be made by the state treasurer to
30 that county pursuant to section 42-5029, subsection D, paragraph 2, Arizona
31 Revised Statutes, plus interest on that amount pursuant to section 44-1201,
32 Arizona Revised Statutes, retroactive to the first day the funding was due.
33 If the monies the state treasurer withholds are insufficient to meet that
34 county's funding requirements as specified in subsection A of this section,
35 the state treasurer shall withhold from any other monies payable to that
36 county from whatever state funding source is available an amount necessary to
37 fulfill that county's requirement. The state treasurer shall not withhold
38 distributions from the highway user revenue fund pursuant to title 28,
39 chapter 18, article 2, Arizona Revised Statutes.

40 C. Payment of an amount equal to one-twelfth of the total amount
41 determined pursuant to subsection A of this section shall be made to the
42 state treasurer on or before the fifth day of each month. On request from
43 the director of the Arizona health care cost containment system
44 administration, the state treasurer shall require that up to three months'
45 payments be made in advance, if necessary.

1 D. The state treasurer shall deposit the amounts paid pursuant to
2 subsection C of this section and amounts withheld pursuant to subsection B of
3 this section in the Arizona health care cost containment system fund and the
4 long-term care system fund established by section 36-2913, Arizona Revised
5 Statutes.

6 E. If payments made pursuant to subsection C of this section exceed
7 the amount required to meet the costs incurred by the Arizona health care
8 cost containment system for the hospitalization and medical care of those
9 persons defined as an eligible person pursuant to section 36-2901, paragraph
10 6, subdivisions (a), (b) and (c), Arizona Revised Statutes, the director of
11 the Arizona health care cost containment system administration may instruct
12 the state treasurer either to reduce remaining payments to be paid pursuant
13 to this section by a specified amount or to provide to the counties specified
14 amounts from the Arizona health care cost containment system fund and the
15 long-term care system fund.

16 F. It is the intent of the legislature that the Maricopa county
17 contribution pursuant to subsection A of this section be reduced in each
18 subsequent year according to the changes in the GDP price deflator. For the
19 purposes of this subsection, "GDP price deflator" has the same meaning
20 prescribed in section 41-563, Arizona Revised Statutes.

21 Sec. 15. ALTCS; county contributions

22 Notwithstanding section 11-292, Arizona Revised Statutes, county
23 contributions for the Arizona long-term care system for fiscal year 2008-2009
24 are as follows:

25	1. Apache	\$ 628,500
26	2. Cochise	\$ 5,644,100
27	3. Coconino	\$ 1,885,900
28	4. Gila	\$ 2,340,100
29	5. Graham	\$ 1,216,100
30	6. Greenlee	\$ 117,900
31	7. La Paz	\$ 885,700
32	8. Maricopa	\$160,744,800
33	9. Mohave	\$ 8,397,100
34	10. Navajo	\$ 2,600,100
35	11. Pima	\$ 41,270,700
36	12. Pinal	\$ 12,905,000
37	13. Santa Cruz	\$ 1,929,600
38	14. Yavapai	\$ 9,212,100
39	15. Yuma	\$ 6,864,700

40 Sec. 16. Hospitalization and medical care contribution; fiscal
41 year 2008-2009

42 A. Notwithstanding any other law, for fiscal year 2008-2009, beginning
43 with the second monthly distribution of transaction privilege tax revenues,
44 the state treasurer shall withhold the following amounts from state
45 transaction privilege tax revenues otherwise distributable, after any amounts

1 withheld for the county long-term care contribution or the county
2 administration contribution pursuant to section 11-292, subsection P, Arizona
3 Revised Statutes, for deposit in the Arizona health care cost containment
4 system fund established by section 36-2913, Arizona Revised Statutes, for the
5 provision of hospitalization and medical care:

6	1. Apache	\$ 87,300
7	2. Cochise	\$ 162,700
8	3. Coconino	\$ 160,500
9	4. Gila	\$ 65,900
10	5. Graham	\$ 46,800
11	6. Greenlee	\$ 12,000
12	7. La Paz	\$ 24,900
13	8. Mohave	\$ 187,400
14	9. Navajo	\$ 122,800
15	10. Pima	\$1,115,900
16	11. Pinal	\$ 218,300
17	12. Santa Cruz	\$ 51,600
18	13. Yavapai	\$ 206,200
19	14. Yuma	\$ 183,900

20 B. If a county does not provide funding as specified in subsection A
21 of this section, the state treasurer shall subtract the amount owed by the
22 county to the Arizona health care cost containment system fund from any
23 payments required to be made by the state treasurer to that county pursuant
24 to section 42-5029, subsection D, paragraph 2, Arizona Revised Statutes, plus
25 interest on that amount pursuant to section 44-1201, Arizona Revised
26 Statutes, retroactive to the first day the funding was due. If the monies
27 the state treasurer withholds are insufficient to meet that county's funding
28 requirement as specified in subsection A of this section, the state treasurer
29 shall withhold from any other monies payable to that county from whatever
30 state funding source is available an amount necessary to fulfill that
31 county's requirement. The state treasurer shall not withhold distributions
32 from the highway user revenue fund pursuant to title 28, chapter 18, article
33 2, Arizona Revised Statutes.

34 C. Payment of an amount equal to one-twelfth of the total monies
35 prescribed pursuant to subsection A of this section shall be made to the
36 state treasurer on or before the fifth day of each month. On request from
37 the director of the Arizona health care cost containment system
38 administration, the state treasurer shall require that up to three months'
39 payments be made in advance, if necessary.

40 D. The state treasurer shall deposit the monies paid pursuant to
41 subsection C of this section in the Arizona health care cost containment
42 system fund established by section 36-2913, Arizona Revised Statutes.

1 E. In fiscal year 2008-2009, the sum of \$2,646,200 withheld pursuant
2 to subsection A or B of this section, as applicable, is allocated for the
3 county acute care contribution for the provision of hospitalization and
4 medical care services administered by the Arizona health care cost
5 containment system administration.

6 F. County contributions made pursuant to subsection A of this section
7 are excluded from the county expenditure limitations.

8 Sec. 17. Competency restoration treatment; county and city
9 reimbursement; fiscal year 2008-2009; deposit; tax
10 withholding

11 A. Notwithstanding section 13-4512, Arizona Revised Statutes, if the
12 state pays the costs of a defendant's inpatient competency restoration
13 treatment pursuant to section 13-4512, Arizona Revised Statutes, for counties
14 with a population of eight hundred thousand or more persons and for all
15 cities, the city or county shall reimburse the department of health services
16 for eighty-six per cent of these costs for fiscal year 2008-2009.

17 B. The department shall deposit the reimbursements, pursuant to
18 sections 35-146 and 35-147, Arizona Revised Statutes, in the Arizona state
19 hospital fund established by section 36-545.08, Arizona Revised Statutes.

20 C. Each city and county shall make the reimbursements for these costs
21 as specified in subsection A of this section within thirty days after a
22 request by the department. If the city or county does not make the
23 reimbursement, the superintendent of the Arizona state hospital shall notify
24 the state treasurer of the amount owed and the treasurer shall withhold the
25 amount, including any additional interest as provided in section 42-1123,
26 Arizona Revised Statutes, from any transaction privilege tax distributions to
27 the city or county. The treasurer shall deposit the withholdings, pursuant
28 to sections 35-146 and 35-147, Arizona Revised Statutes, in the Arizona state
29 hospital fund established by section 36-545.08, Arizona Revised Statutes.

30 Sec. 18. Proposition 204 administration; county expenditure
31 limitation

32 County contributions for the administrative costs of implementing
33 sections 36-2901.01 and 36-2901.04, Arizona Revised Statutes, that are made
34 pursuant to section 11-292, subsection 0, Arizona Revised Statutes, are
35 excluded from the county expenditure limitations.

36 Sec. 19. Health insurance premiums; department of
37 administration

38 For fiscal year 2008-2009, the department of administration shall not
39 implement a differentiated health insurance premium based on the integrated
40 or nonintegrated status of a health insurance provider available through the
41 state employee health insurance program beginning October 1, 2008.

1 Sec. 20. AHCCCS: reimbursement rates: freeze

2 For rates effective October 1, 2008 through September 30, 2009, the
3 Arizona health care cost containment system administration shall not increase
4 the inpatient hospital tier per diem rates, inpatient hospital outlier
5 thresholds or aggregate outpatient hospital fee schedule rates above the
6 rates in effect on September 30, 2008, except that the administration shall
7 continue the phase-in of outlier cost-to-charge ratios as required by section
8 36-2903.01, subsection H, paragraph 10, Arizona Revised Statutes.

9 Sec. 21. Health crisis fund deposit

10 A. Notwithstanding section 36-797, Arizona Revised Statutes, on July
11 1, 2008, sufficient monies from the medically needy account to establish a
12 fund balance of \$500,000 shall be deposited in the health crisis fund.

13 B. This section applies retroactively to from and after June 30, 2008.

14 Sec. 22. Maricopa integrated health system; audit

15 The auditor general shall conduct a financial and performance audit of
16 the Maricopa special health care district, which includes the Maricopa
17 integrated health system, pursuant to section 41-1278, Arizona Revised
18 Statutes, and provide a report to the governor, the president of the senate
19 and the speaker of the house of representatives on or before March 15, 2009.
20 The audit shall:

21 1. Identify and examine the current financial, administrative and
22 operational issues of the district and identify changes required to ensure
23 financial stability.

24 2. Identify the amount of funds generated through the taxing authority
25 of the district and how such funds are used.

26 3. Examine the personnel structure, specifically management salaries,
27 contract personnel and associated costs and evaluate whether this structure
28 is consistent with and necessary for the execution of the statutorily
29 designated duties of the district.

30 4. Identify all sources of state and federal funding received by the
31 district and how these funds are used.

32 5. Examine and identify the amount of medical assistance furnished to
33 indigent individuals who are uninsured and ineligible for medicaid and other
34 health service programs and identify policies that have changed to restrict
35 services to this population.

36 6. Examine the amount of uncompensated care provided on an annual
37 basis by the district and measure this amount in relation to the amount of
38 uncompensated care provided by facilities of the district before the
39 formation of the district, to the amount of uncompensated care provided by
40 facilities of the district before the implementation of proposition 204, and
41 to the amount of uncompensated care reported by other private hospitals in
42 Arizona and public hospitals in other states.

43 7. Recommend programmatic, administrative, financial and operational
44 changes to ensure financial stability, improved accessibility and effective
45 health care delivery.

1 Sec. 23. Healthcare group: employer groups: continued
2 eligibility

3 Notwithstanding section 36-2912, Arizona Revised Statutes, as amended
4 by this act, an employer group of one eligible employee that was enrolled in
5 healthcare group before the effective date of this act may continue to be
6 enrolled in healthcare group if the employer group continues to meet all
7 other applicable requirements for enrollment.

8 Sec. 24. Healthcare group; temporary enrollment limit

9 Notwithstanding section 36-2912, Arizona Revised Statutes, as amended
10 by this act, beginning August 1, 2008 and ending June 30, 2009, healthcare
11 group shall limit employer group enrollment to not more than five per cent
12 more than the number of employer groups enrolled in the program as of July
13 31, 2008. Enrollment priority shall be given to uninsured groups.

14 Sec. 25. Purpose

15 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
16 the legislature continues the Arizona pioneers' home and disabled miners
17 hospital to provide services to long-term residents and miners of this state.

18 Sec. 26. Retroactivity

19 A. Sections 7 and 8 of this act, relating to the Arizona pioneers'
20 home and disabled miners hospital, are effective retroactively to July 1,
21 2008.

22 B. Section 16, subsection F of this act, relating to hospitalization
23 and medical care contributions and section 18 of this act, relating to
24 proposition 204 administration, are effective retroactively to June 30, 2004.